



13 DEC 2019

Dear [REDACTED]

On 22 October 2019, the Ministry of Social Development (the Ministry) received your request under the Official Information Act 1982, for a series of questions related to debt and debt recovery procedures.

For the sake of clarity, I will respond to each of your questions in turn.

1. *Whether the Ministry and/or Work and Income in practice define 'debt' as overpayments of any kind, including:
 - a. recipient error; and/or
 - b. error on the part of the Ministry and/or Work and Income New Zealand;along with deliberate fraudulent misrepresentation on the part of the welfare recipient.*

Information about the Ministry's criteria for debt as the result of an error can be found here: www.workandincome.govt.nz/map/income-support/core-policy/current-client-debt/debt-the-result-of-an-error-01.html. Information about the Ministry's debt write-off criteria is available here: www.workandincome.govt.nz/map/income-support/core-policy/current-client-debt/debt-write-off-criteria.html.

The Ministry defines debt in accordance with the Social Security Act 2018. Regulation 206 of the Social Security Regulations 2018 clearly identifies debt, including advances and Special Needs Grants. Section 353 of the Social Security Act 2018 notes debt as identified overpayments or penalties as debts due to the Crown.

Section 444 of the Social Security Act 2018 provides for overpayment established in error, and that these debts are the "exceptions to the debt-recovery duty imposed on MSD". This means that the Ministry will not recover these debts if they meet the criteria for office error debt. Further information about the Social Security Regulations 2018 and the Social Security Act 2018 can be found here: www.legislation.govt.nz/regulation/public/2018/0202/14.0/LMS96210.html and here: www.legislation.govt.nz/act/public/2018/0032/latest/whole.html#DLM6783545.

2. *Whether the Ministry and/or Work and Income use an automated eligibility technology, similar or identical to the US state of Illinois' Integrated Eligibility System or Australia's 'robodebt' system, to determine whether historic overpayments to a welfare recipient have occurred.*

I can confirm that the Ministry does not use an automated eligibility technology.

3. *Whether the Ministry and/or Work and Income are bound by a statute of limitations on the collection of debts; if so, I wish to know how many years must pass before a welfare recipient's debts must be written off.*

There is no mention in the Social Security Act 2018 (or its predecessor of 1964) regarding a statute of limitation on the recovery of Crown debt. The Ministry's duty to recover debt is directed by section 362 of the Social Security Act 2018, with exceptions to that duty set out in the Social Security Regulations (subpart 9, sections 207-215).

4. *Whether the Ministry and/or Work and Income, or any of their contractors and/or subcontractors, pursue debts owed by New Zealand welfare recipients which are:*
- a) past the statute of limitations; and/or*
 - b) the result of error on the part of the Ministry and/or Work and Income, but not on that part of the welfare recipient; and/or*
 - c) not owed; and/or*
 - d) not paid in full; and/or*
 - e) contested in any other manner, including both legal and extra-legal means.*

The Ministry does not pursue recovery of office error debt, or those not owed, already paid in full or contested (e.g. subject to a Review of Decision or appeal). The Ministry currently uses a sub-contractor to recover high value debt from former clients living overseas.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter available to the wider public. The Ministry will do this by publishing this letter on the Ministry of Social Development's website. Your personal details will be deleted and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response about debt overpayments, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely

A handwritten signature in black ink, consisting of several loops and a long horizontal tail.

George Van Ooyen
Group General Manager Client Service Support