



5 AUG 2021

Tēnā koe

On 8 July 2021, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- Paper "Welfare Overhaul: Update on the review of the warrant to arrest sanction" received by the Minister for Social Development's office on 18 Jun 21
- Report "Update on the review of the purposes and principles of the Social Security Act 2018", received by the Minister for Social Development's office on 11 Jun 21

Please find the following documents attached to this response:

- REP/20/5/511 - Report - *Update on the review of the purposes and principles of the Social Security Act 2018*, dated 10 June 2021, and
- REP/21/5/528 - Report - *Welfare Overhaul: Update on the review of the warrant to arrest sanction*, dated 17 June 2021.

You will note that some information is withheld under section 9(2)(f)(iv) of the Act as it is under active consideration. The release of this information is likely to prejudice the ability of government to consider advice and the wider public interest of effective government would not be served.

You will also note that some information is withheld under section 9(2)(g)(i) of the Act to protect the effective conduct of public affairs through the free and frank expression of opinions. I believe the greater public interest is in the ability of individuals to express opinions in the course of their duty.

Furthermore, you will note that the names and identifying features of some individuals are withheld under section 9(2)(a) of the Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

The principles and purposes of the Act 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.

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This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public. The Ministry will do this by publishing this letter and attachments on the Ministry'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 regarding reports on the Social Security Act 2018, and Welfare Overhaul with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response, 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.

Ngā mihi nui

A handwritten signature in blue ink that reads "Christian Opetiaia". The signature is written in a cursive, flowing style.

Christian Opetiaia
Policy Manager
Welfare System and Income Support Policy



Report

Date: 17 June 2021

Security Level: IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and Employment

Welfare Overhaul: Update on the review of the warrant to arrest sanction

Purpose of the report

- 1 This report provides you with an update and next steps on the review of the warrant to arrest sanction. You are also asked to forward this report to the Minister of Justice and the Minister of Police for their information as we will continue to work closely with Ministry of Justice and Police officials on the review.

Executive summary

- 2 The Welfare Expert Advisory Group recommended, in its 2019 report *Whakamana Tāngata*, removing a number of obligations and sanctions currently in the welfare system. This included the warrant to arrest sanction.
- 3 You signalled your intent to review obligations and sanctions as part of the Welfare Overhaul medium term work programme [SWC-19-MIN-0168 refers]. The warrant to arrest sanction is being reviewed along with a range of other obligations and sanctions, which include social obligations, pre-employment drug tests and work obligations.
- 4 The warrant to arrest sanction, which stops benefit payments when clients have an outstanding warrant to arrest, was introduced in 2013. The sanction is intended to stop benefit income being used while there is a warrant out for a client's arrest and to encourage resolution of warrants.
- 5 The Ministry of Justice currently has a data matching agreement with the Ministry of Social Development (MSD) where certain information about people with unresolved warrants is shared. MSD only receives enough information to identify the client to apply the sanction, and does not receive information on what offences the warrants are issued for. No action is taken within the first 28 days of the data match to allow people to voluntarily resolve their warrant. If Police has reasonable grounds to believe that an MSD client with an outstanding warrant to arrest is a risk to public safety, Police may notify MSD to have their benefit suspended immediately.
- 6 The number of notifications for warrants to arrest through the data match is increasing, with a consequent increase in the number of sanctions applied. We intend to work with Police and the Ministry of Justice to identify the causes behind the increased number of notifications for warrants to arrest.

7 §9(2)(g)(i) OIA

8 §9(2)(g)(i) OIA

s9(2)(g)(i) OIA

9 Māori make up 36 percent of the adult main benefit population. For the calendar year ending June 2020, 71 percent of warrant to arrest sanction recipients were Māori. This shows that Māori are overrepresented in warrant to arrest sanction data. Therefore, any changes to the warrant to arrest sanction is likely to have a significant impact on Māori.

10 s9(2)(f)(iv) OIA

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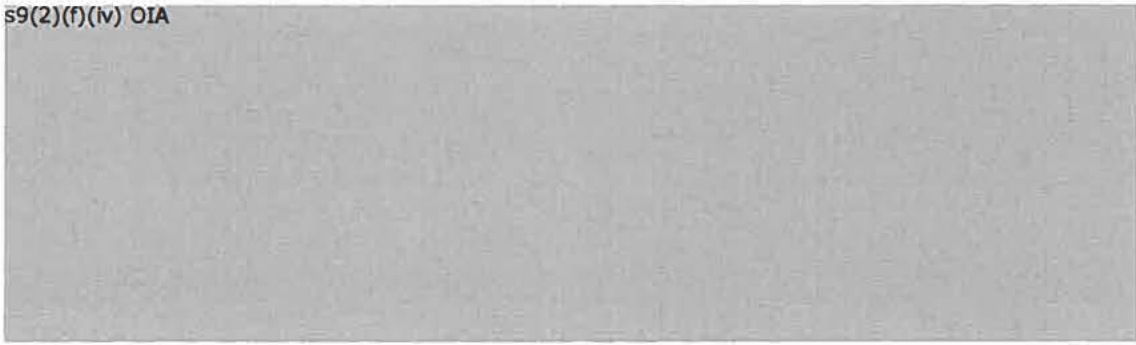
Recommended actions

It is recommended that you:

- 1 **note** the Welfare Expert Advisory Group recommended the removal of the warrant to arrest sanction
- 2 **note** the warrant to arrest sanction policy was introduced in 2013 to stop those with unresolved warrants for arrest receiving benefit payments and encourage the resolution of warrants to arrest
- 3 **note** the current process for how a warrant to arrest sanction is applied is attached at **Appendix one**
- 4 **note** there are an increasing number of sanctions applied for warrants to arrest each year due to increasing numbers of warrants to arrests being issued, and this is disproportionately impacting Māori

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s9(2)(f)(iv) OIA



6 **note** we have been working with the Ministry of Justice and Police on the review of the warrant to arrest sanction and will require further consultation and collaboration to progress the review.

7 **note** we will also work with other relevant agencies such as the Department of Corrections, in progressing the review of the warrant to arrest sanction

8 s9(2)(f)(iv) OIA



9 **agree** to forward this report to the Minister of Justice and the Minister of Police for their information.

Agree / Disagree

Christian Opetaia
Policy Manager
Welfare System and Income Support Policy

Date

Hon Carmel Sepuloni
Minister for Social Development and Employment

Date

Background

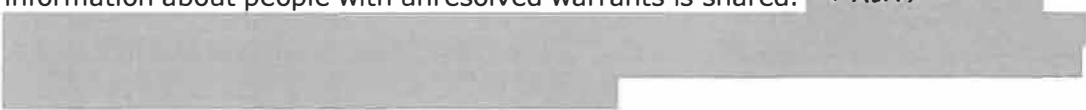
The Welfare Expert Advisory Group recommended removing the warrant to arrest sanction

- 15 The Welfare Expert Advisory Group (WEAG) recommended, in its 2019 report *Whakamana Tāngata*, removing a number of obligations and sanctions currently in the welfare system. The WEAG found little evidence in support of using obligations and sanctions to change people's behaviour within the welfare system. The WEAG found there is research indicating that obligations and sanctions can compound social harm and disconnectedness. The WEAG recommended moving away from such an approach towards a framework of mutual expectations and responsibilities and taking personal circumstances into account.
- 16 One of the sanctions recommended for removal as part of Recommendation 11 is the warrant to arrest sanction. The WEAG recommended removing the sanction but to continue data matching with the Ministry of Justice and take a proactive supportive approach to contacting these people.

The Government has committed to reviewing obligations and sanctions

- 17 In the Cabinet paper *Welfare Overhaul: Update on Progress and Long-Term Plan*, you signalled your intention to review obligations and sanctions, with an initial focus on those that impact on children [SWC-19-MIN-0168 refers].
- 18 Various obligations and sanctions are currently under review. The section 192 sanction for not naming the other parent was removed on 1 April 2020. The Bill to remove the subsequent child policy is currently at the Select Committee stage, and is due for removal by November 2021.
- 19 You have received advice on social obligations [REP/21/4/350 refers] and the scope of the review of work obligations and sanctions [REP/21/3/296 refers], with advice on pre-employment drug tests to be provided in due course.

The warrant to arrest sanction was introduced to stop benefit income being used while there is a warrant out for a client's arrest and to encourage resolution of warrants

- 20 The warrant to arrest sanction was introduced in 2013. The objective of the sanction was to remove the possibility that benefit income is used to actively facilitate non-compliance with legal obligations, by encouraging beneficiaries to clear their warrants to arrest. The sanction is implemented through the Social Security Act 2018.
- 21 A warrant to arrest is issued in a range of circumstances, usually it is for not attending a scheduled court appearance. Benefits are either completely suspended or reduced by 50 percent for people with children. Clients must resolve their warrant at court offices, or prove they are taking reasonable steps to resolve it, to have their benefits restarted. In general, these are not backdated unless there has been an error or other exceptional circumstances.
- 22 The Ministry of Justice has a data matching agreement with MSD where certain information about people with unresolved warrants is shared. s9(2)(g)(i) OIA

- 23 Once a warrant to arrest is issued by the Ministry of Justice, there is a 28-day waiting period before the data matching process with MSD is initiated, to allow for voluntary resolution of warrants. After the 28-day period, the data matching process with MSD is initiated which automatically matches warrant to arrest data with MSD clients. MSD begins the process of notifying the client to offer further chance of resolution and the ability to challenge on certain grounds. Clients have four calendar days to confirm receipt of the notification. If no action is taken following this period, the sanction is

applied after a further 10 working days has passed without resolution. An overview of the current process of how a sanction is applied is outlined in **Appendix one**.

24 9(2)(f)(iv) OIA

A small group of those sanctioned are a risk to public safety

25 Where the Commissioner of Police has reasonable grounds to believe that an MSD client with an outstanding warrant to arrest is a risk to public safety, Police may notify MSD to have their benefit suspended immediately. This applies to people who are being actively pursued and if they cannot be located by Police, stopping their benefit is used as an aid to encourage them to resolve this warrant. In deciding whether a client is a risk to public safety, Police considers:

- the individual's past and current behaviour,
- the offences for which the warrant to arrest was issued, and
- whether there was offending while on bail.

26 There is currently no discretion for MSD to review any notifications from the Police that has determined a client to be a risk to public safety.

27 Once MSD is notified and the client's benefit is suspended through a manual data match by an MSD staff member, the client is notified by a letter. Several measures are in place to ensure Police remain informed and MSD staff members are kept safe. As those who pose a risk to public safety follow a different process to all other MSD clients, the 50 per cent child protection rate does not apply, nor does the notice period to clear or challenge the warrant to arrest.

28 Those identified as a public risk make up a very small portion of sanctioned clients. There are between 20 and 40 clients per year who have their benefit suspended immediately on request by Police as they have been identified as being a risk to public safety.

9(2)(g)(i) OIA

29 9(2)(g)(i) OIA

Data since the sanction was introduced shows that once a sanction is imposed approximately 75 percent are cleared within one month, with the remaining 25 percent being resolved after a month. Whilst the turnover rate of sanctions being cleared is high, further work is required to understand the impact on the remaining 25 percent who do not have their warrants resolved within the first month.

30 MSD does not hold data on how quickly warrants were resolved before the sanction was implemented, and whether 75 percent of warrants to arrests being resolved within a month is an improvement. Further work is required to understand whether the data shows sanctions do lead to warrants being resolved more quickly, or whether warrants would be resolved within reasonable timeframes without the threat of a sanction.

Sanctions for warrants to arrest are increasing year on year

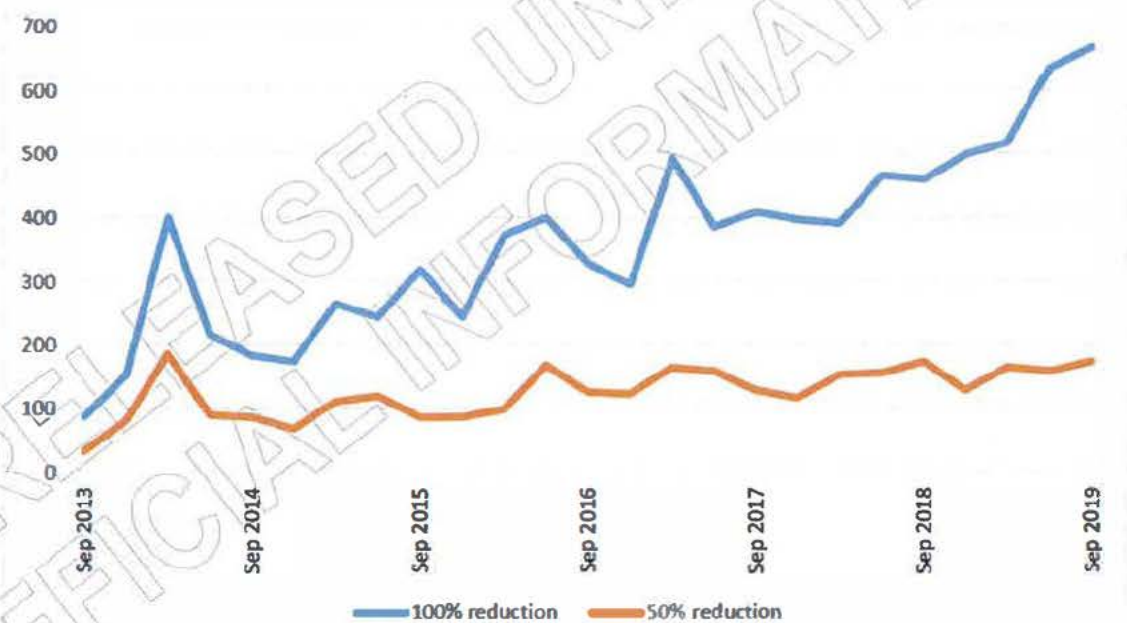
31 Total notifications under the data match with the Ministry of Justice are increasing year on year. In line with this, volumes of sanctions are growing each year and the ratio of 100 percent reduction of benefit payments is increasing against 50 percent reduction in benefit payments. This indicates that each year, more MSD clients are receiving warrants to arrest, are receiving more sanctions, and are more likely to receive a complete suspension of their benefit as they do not have dependent children. The number of sanctions applied to people with children has remained

relatively stable. We need to do further work to explore why the number of notifications under the data match has been increasing over time.

Figure 1 - Notifications of warrants to arrest versus sanctions imposed from notifications¹



Figure 2 - Number of warrants to arrest sanction recipients each quarter by sanction type



About one third of those sanctioned have received multiple warrant to arrests sanctions over a six-year period

32 Roughly one in three warrant to arrest sanction recipients received more than one warrant to arrest sanction over a six-year period, and roughly since its implementation. This indicates to some degree that for a group of MSD clients, having a sanction in the past due to a warrant to arrest has not altered future behaviour and may not be a sufficient incentive to resolve warrants to arrest. This

¹Clients receiving a warrant to arrest sanction make up a small proportion of people on a main benefit. In 2019, approximately one percent of clients on main benefits received a warrant to arrest sanction (as at December 2019).

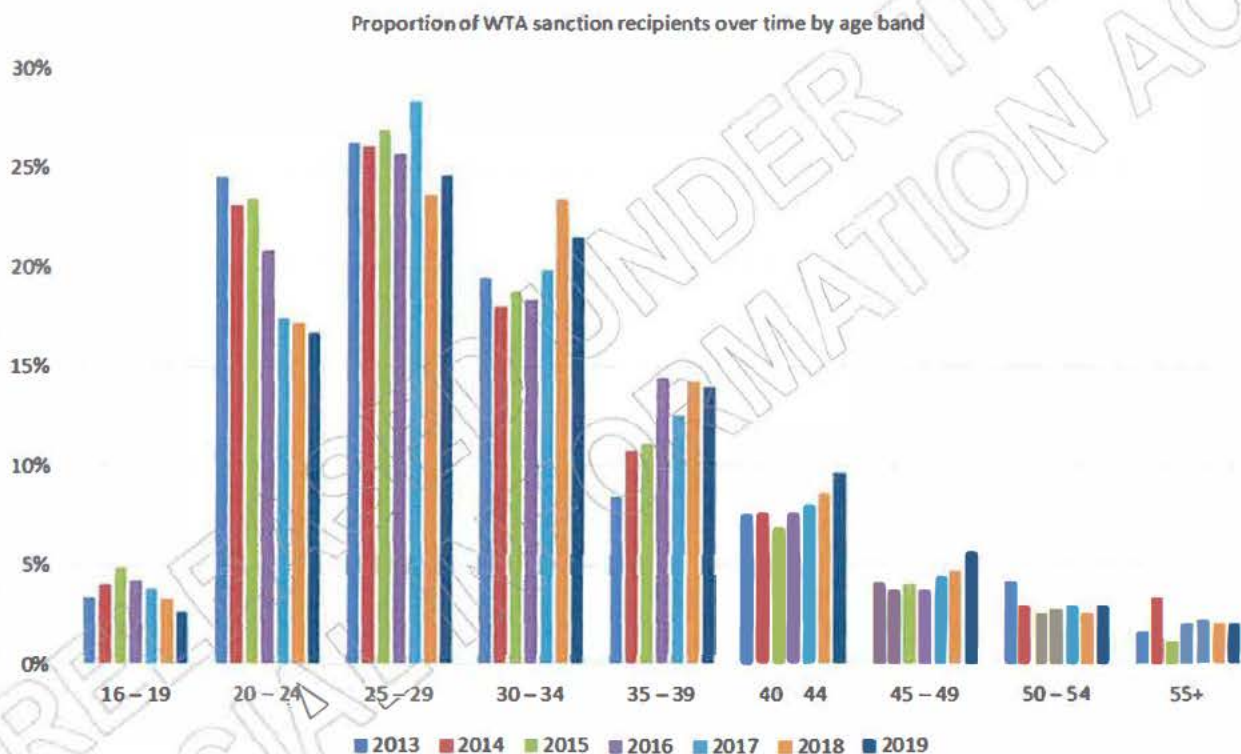
behaviour depends on different factors and will require further work with Police and Ministry of Justice.

- 33 This also indicates two thirds of clients only receive one warrant to arrest sanction in a six-year period. Whether this means the warrant to arrest sanction supports the aim of having people resolve their warrants requires further work with Police and Ministry of Justice.

The age at which clients are receiving warrants to arrest is increasing

- 34 Successive cohorts of warrant to arrest sanction recipients have also been getting older each year. As work with our justice sector partners progresses, we hope to gain a better understanding of trends in crime and corrections that may offer reasons for this.

Figure 3 Proportion of Warrant to Arrest sanction recipients over time by age band



Māori are overrepresented in warrant to arrest sanction data

- 35 Māori make up 36 percent of the adult main benefit population. For the calendar year ending June 2020, 71 percent of warrant to arrest sanction recipients were Māori. This shows that Māori are overrepresented in warrant to arrest sanction data. Therefore, any changes to the warrant to arrest sanction is likely to have a significant impact on Māori.

- 36 The review will need to consider MSD’s Māori strategy and action plan, Te Pae Tata. The action plan provides a valuable framework to ensure the review achieves better outcomes for New Zealanders. Te Pae Tata embraces the three key shifts outlined in our Statement of Intent, Te Pae Tawhiti – Our Future. Te Pae Tata articulates how the three key shifts will be realised for Māori, in accordance with what whānau, hapū and iwi have told us we need to do better. The three key shifts are:

- Mana Manaaki: A positive experience every time – MSD will earn the respect and trust of Māori

- Kotahitanga: Partnering for greater impacts – MSD will form genuine partnerships with Māori
- Kia takatū tātou: Supporting long term social and economic development – MSD will support Māori aspirations.

37 We will also consult with Te Puni Kōkiri and Te Arawhiti as the review progresses.

Police is working with communities to reduce warrants to arrest

38 Police is working to understand how collaboration with the community can reduce the number of warrants to arrest. In March 2021, Police in the Eastern District, in partnership with Behavioural Science Aotearoa and local Māori wardens, launched the trial initiative Whariki Haumarū. Designed in conjunction with the local Regional Court Manager, Whariki Haumarū aims to reduce warrants to arrest using a kaupapa Māori approach. Using a script informed by te ao Māori principles and behavioural science, Māori wardens make phone calls to people with active warrants, encouraging them to resolve their warrants and providing them with support at court.

39 Currently, Whariki Haumarū aims to cover any and all types of offences which people have active warrants for, however there may be exceptions which are still being explored. The trial is expected to last for six months, and will be followed by an evaluation. The date of the evaluation is still to be confirmed. We will consider any information from the evaluation as part of the review where possible.

s9(2)(g)(i) OIA

40 s9(2)(g)(i) OIA

The Government's vision for the Welfare Overhaul is for a welfare system that ensures people have an adequate income and standard of living, are treated with respect, can live in dignity and are able to participate meaningfully in their community. Cabinet also agreed that the review of obligations and sanctions should ensure the regime is designed and implemented to support wellbeing outcomes [SWC-19-MIN-0168 refers].

41 The sanction is applied for 100 percent of benefit payments, or 50 percent for sole parents: This can have a significant impact on individuals and their whānau, as it can affect the ability to pay for housing, food, clothing, and childcare. We will consider these impacts as we progress the review alongside Police and the Ministry Justice.

s9(2)(b)(iv) OIA

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Warrant to Arrest Sanction

s9(2)(f)(iv) OIA

53 s9(2)(f)(iv) OIA

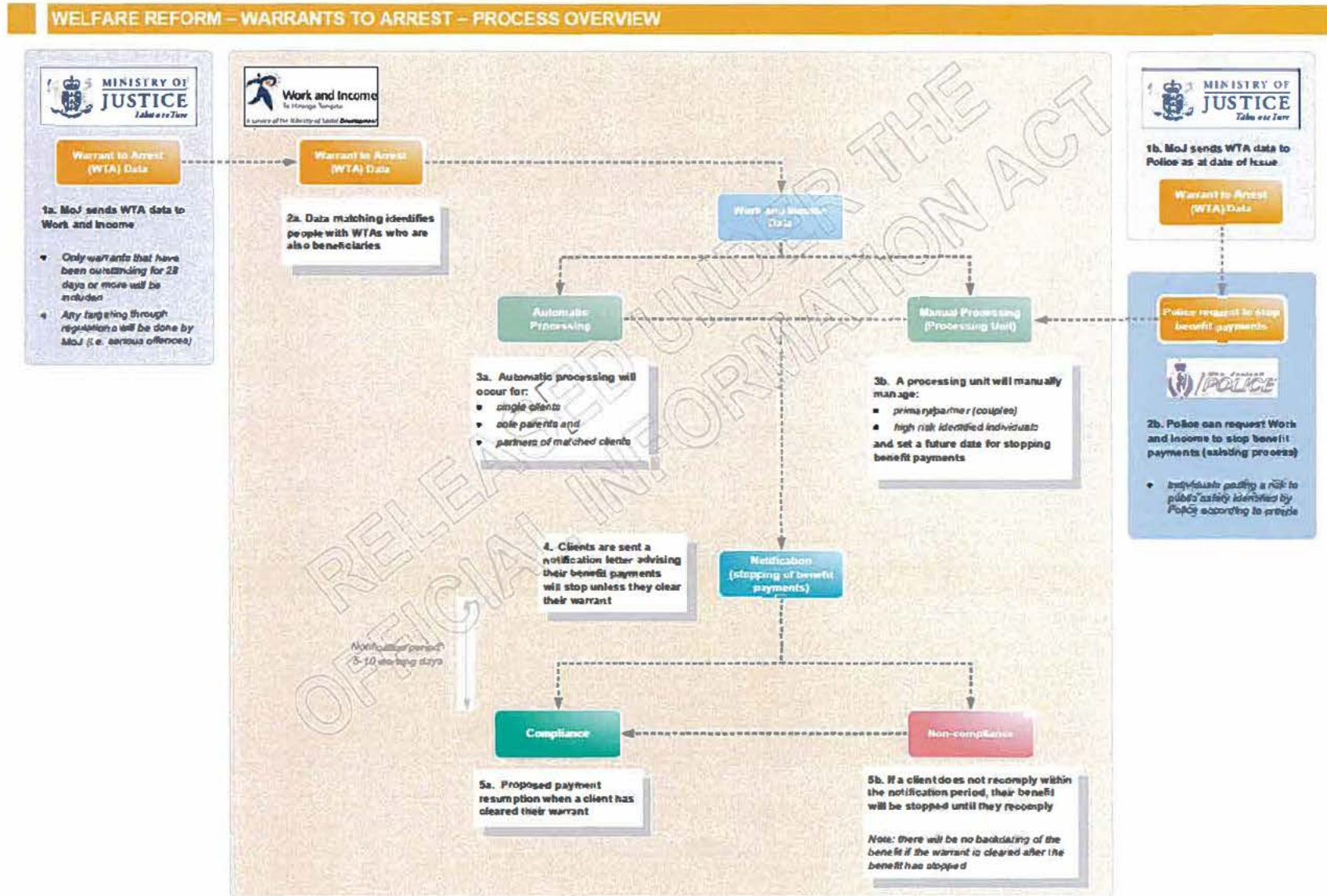
Reference: REP/21/5/528

Author: s9(2)(a) OIA Senior Policy Analyst, Welfare System and Income Support.

Responsible manager: Christian Opetaia, Policy Manager, Welfare System and Income Support.

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Appendix One – Current process for applying the warrant to arrest sanction





Report

Date: 10 June 2021

Security Level: IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and Employment

Update on the review of the purposes and principles of the Social Security Act 2018

Purpose of the report

- 1 This paper updates you on the review of the purposes and principles of the Social Security Act 2018 (the Review) (the Act). s9(2)(f)(iv) OIA

- 2 s9(2)(f)(iv) OIA

Executive summary

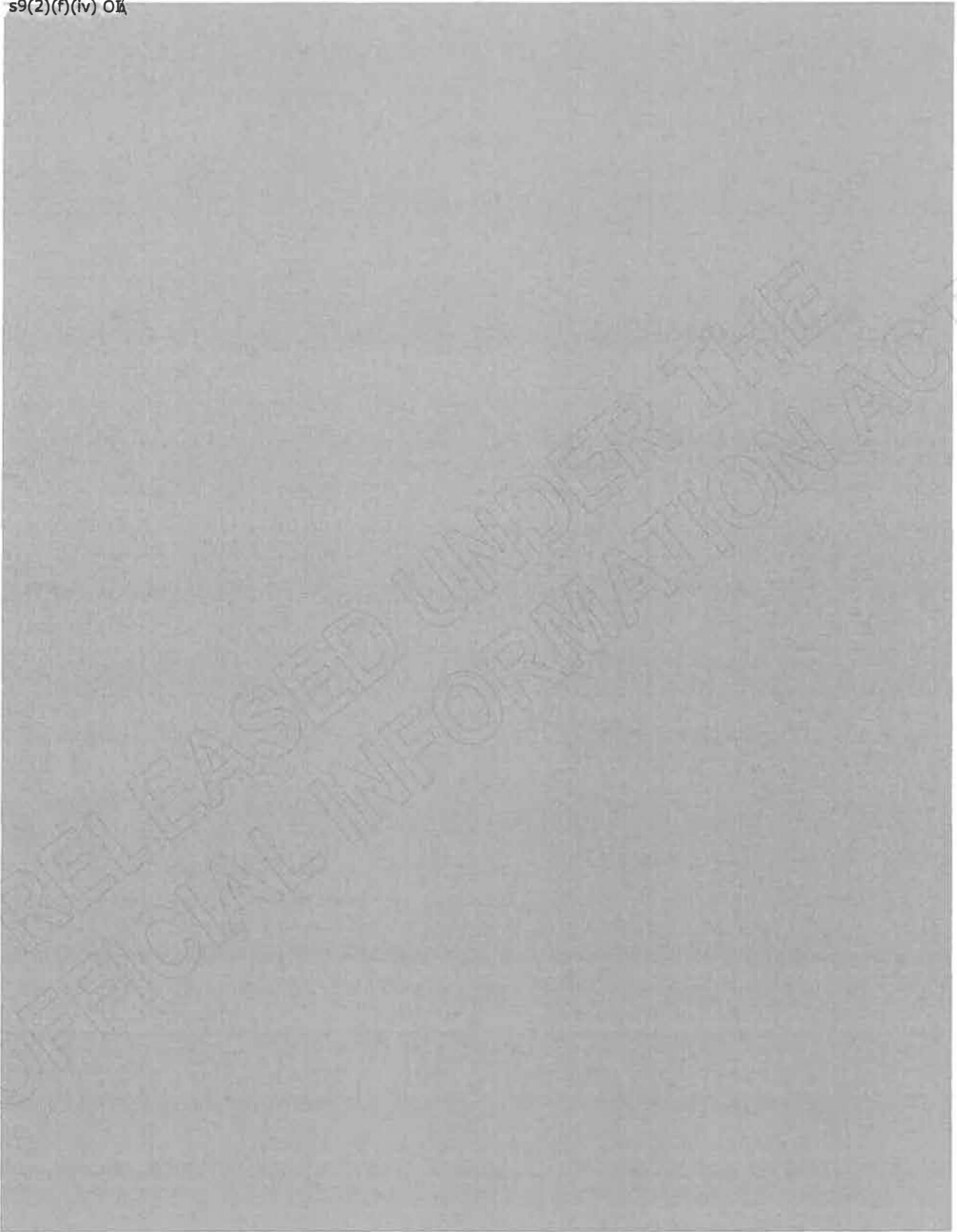
- 3 The Welfare Expert Advisory Group (WEAG) recommended overhauling the foundations of the welfare system, including developing a kaupapa Māori values framework to underpin the welfare system, and amending new purposes and principles into the Act.

The first phase of the Review focused on financial assistance under the Act

- 4 In July 2020, you agreed to progress work on a kaupapa Māori values framework alongside the Review [REP/20/07/829 and REP/20/07/890 refer]. You agreed to begin the Review with a focus on financial assistance, including work on:
 - 4.1 developing new purposes and principles for financial assistance provided by the Act, and
 - 4.2 using legislative obligations to support new purposes and principles and changes to MSD's operating model.

- 5 s9(2)(f)(iv) OIA

s9(2)(f)(iv) OIA



¹ s9(2)(f)(iv) OIA

s9(2)(f)(iv) OIA

Recommended actions

It is recommended that you:

- 1 **note** that you agreed to begin the review of the purposes and principles of the Social Security Act 2018 (the Review) (the Act) with a focus on financial assistance [REP/20/07/890 refers]

s9(2)(f)(iv) OIA

Christian Opetai
Policy Manager
Welfare System and Income Support

Date

Hon Carmel Sepuloni
Minister for Social Development and Employment

Date

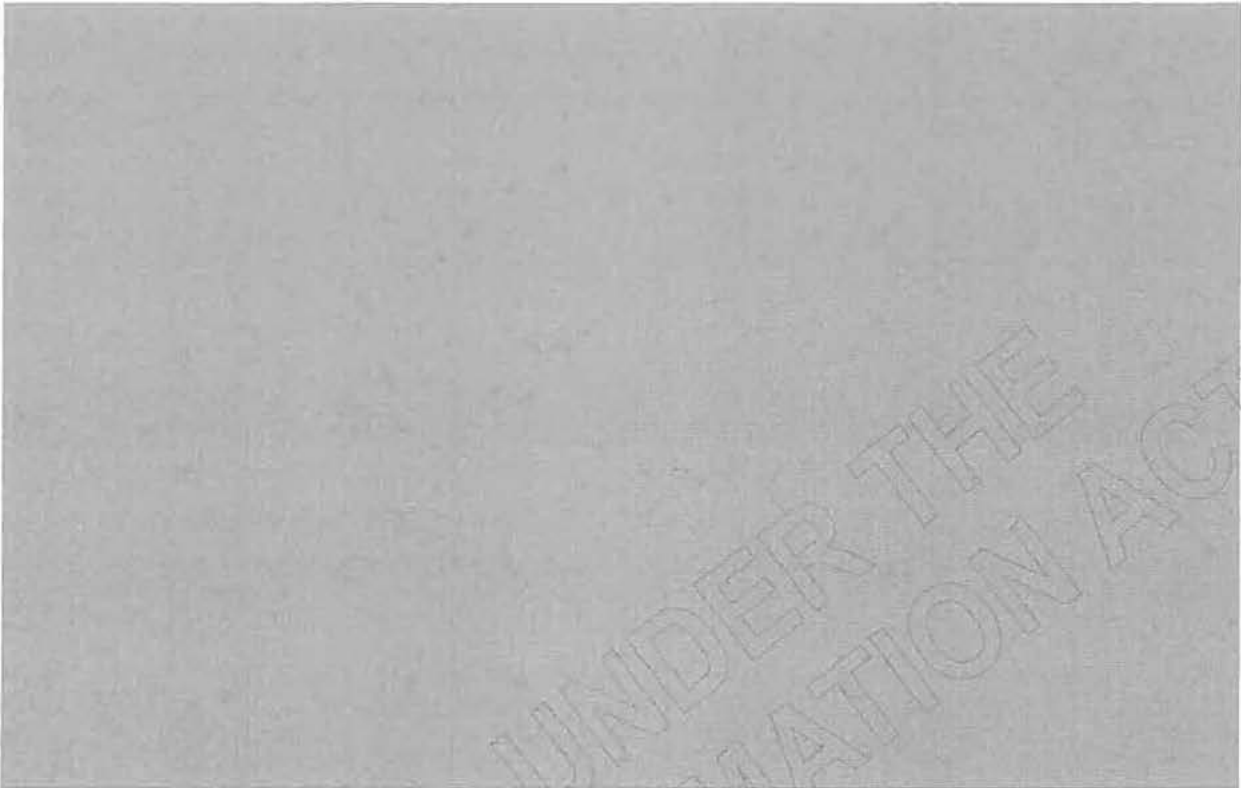
Update on the review of the purposes and principles of the Social Security Act 2018

The first phase of the Review focused on financial assistance

- 16 The WEAG argued that the overall direction of welfare reform in recent decades has been to reduce financial and other support from the Government, whilst raising expectations and penalties on beneficiaries. The WEAG considered that this shift has unbalanced the social contract, which was established by the Social Security Act 1938, and that a new approach to the welfare system was needed.
- 17 In this context, the WEAG proposed overhauling the foundations of the welfare system, including developing a kaupapa Māori values framework for the welfare system and amending new purposes and principles into the Act. The current purposes and principles are attached as Appendix A.
- 18 In July 2020, you agreed to progress the work on a kaupapa Māori values framework alongside the Review [REP/20/07/829 and REP/20/07/890 refer]. You agreed to begin the Review with a focus on financial assistance, including work on:
 - 18.1 developing new purposes and principles for financial assistance provided by the Act, and
 - 18.2 using legislative obligations to support new purposes and principles and changes to MSD's operating model.
- 19 The focus on financial assistance allowed officials to consider how the Review aligned with the substantial policy and administrative changes occurring in response to COVID-19, as well as time for the kaupapa Māori values framework to be further developed.
- 20 s9(2)(f)(iv) OIA

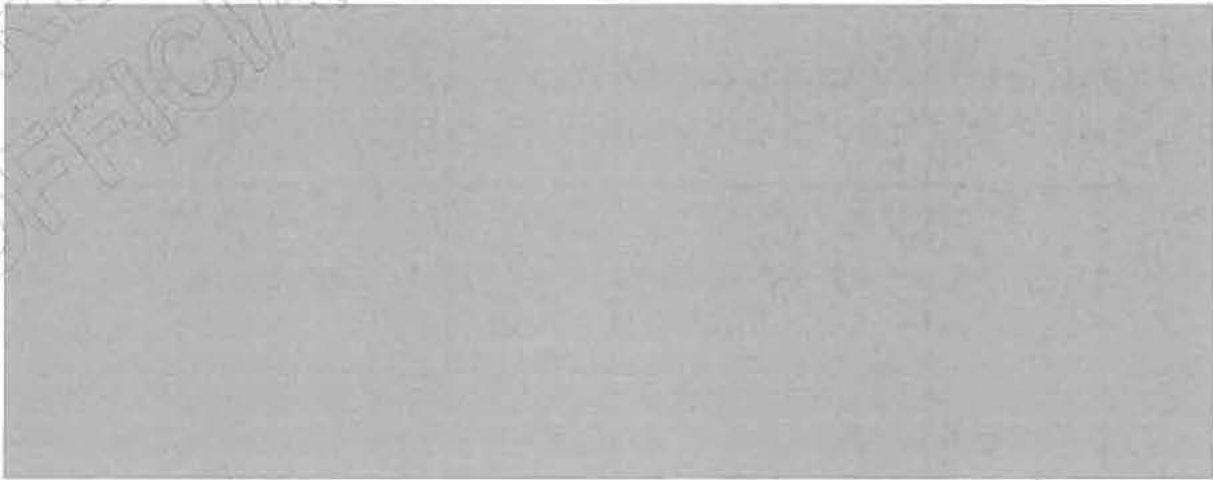
The attached A3s update you on the Review's first phase, including example purposes and principles for your feedback

s9(2)(f)(iv) OIA

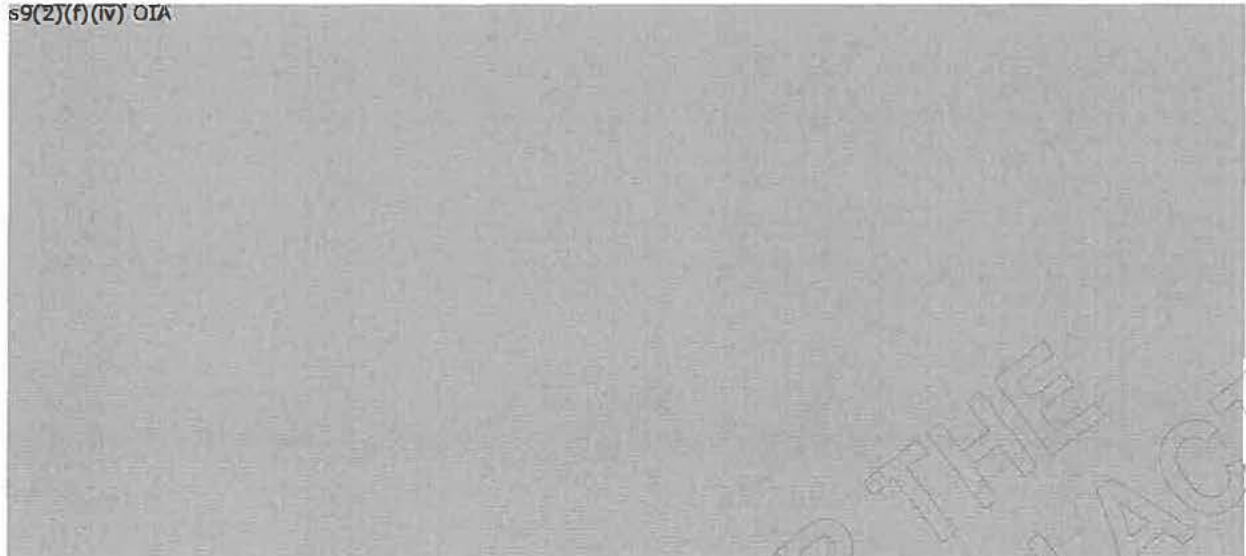


30 You agreed that the Review would consider using legislative obligations to support new purposes and principles and changes to MSD's operating model [REP/20/07/890 refers]. Legislative obligations are usually duties on the Chief Executive (or other actors) to undertake certain actions, for example to establish services to achieve specified outcomes. These obligations help give purposes and principles meaningful effect.

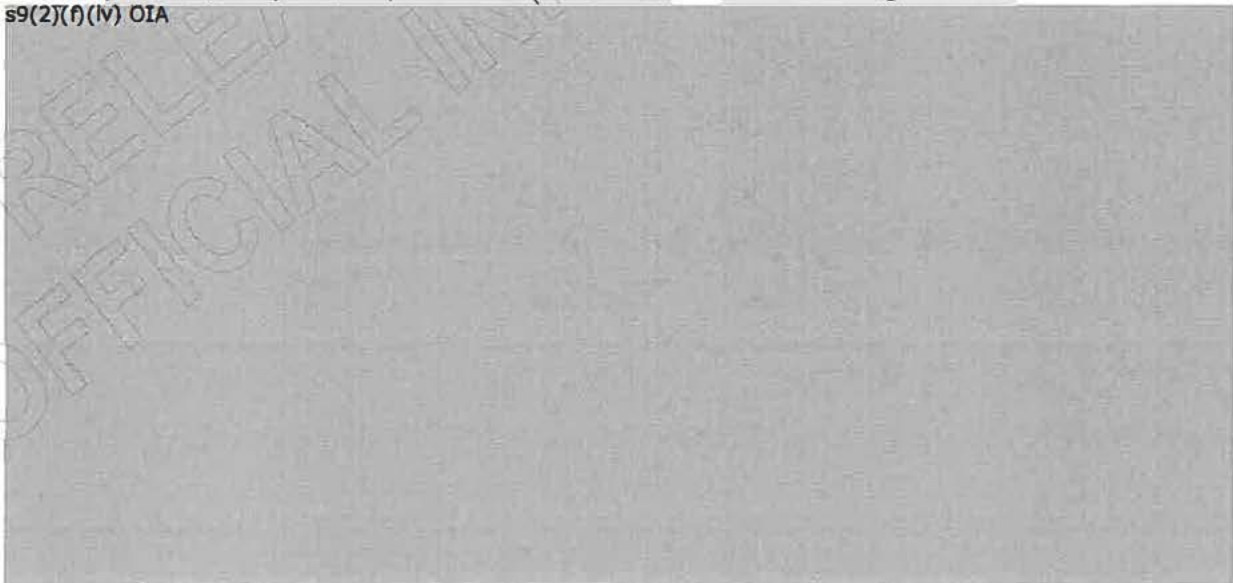
31 For example, the purposes and principles of the Oranga Tamariki Act 1989 are intended to support a more child-centred system. These are supported by legislative obligations on the Chief Executive of Oranga Tamariki – Ministry for Children to establish child-centred services that focus on early intervention, as well as a requirement to develop strategic partnerships with iwi and Māori organisations.



² §9(2)(f)(iv) OIA

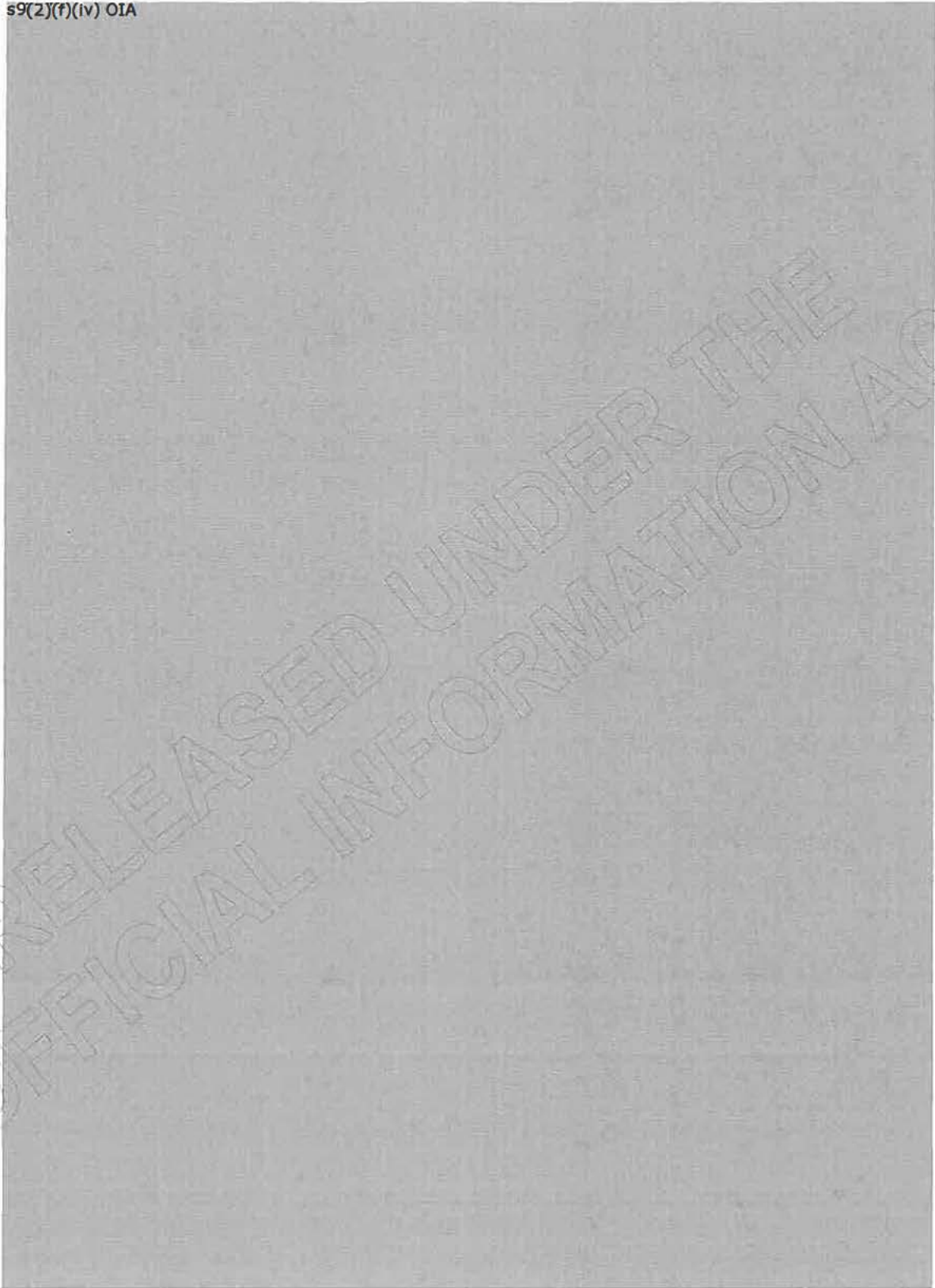


- 38 There are examples of this in New Zealand legislation and that of other countries. For example, Section 1 of the Social Security (Scotland) Act 2018 includes aspirational principles for social security. These principles are supported by Section 2 and 15 of the Act, which require that the Government produces a Scottish Social Security Charter, which explains how the principles are given effect. Section 2(3) states that breach of the principles does not of itself give rise to grounds for any legal action.
- 39 In the New Zealand context, broadly comparable provisions exist in the Public Service Act 2020. That Act has new purposes, principles, and values statements for the public service.³ This is supported by a legislative obligation which permits the Public Service Commissioner to set minimum standards of integrity and conduct. Section 16(2) states that the public service values are given effect only through minimum standards set by the Public Service Commissioner. This is intended to preclude the possibility that values are used as a basis for legal action.



³ s9(2)(f)(iv) OIA

s9(2)(f)(iv) OIA



⁴ s9(2)(f)(iv) OIA

Update on the review of the purposes and principles of the Social Security Act 2018

s9(2)(f)(iv) OIA



File ref: REP/21/5/511

Author: s9(2)(a) OIA Senior Policy Analyst, Welfare System

Responsible Manager: Christian Opetaia, Policy Manager, Welfare System

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Appendix A: Current purposes and principles of the Social Security Act 2018

Purposes

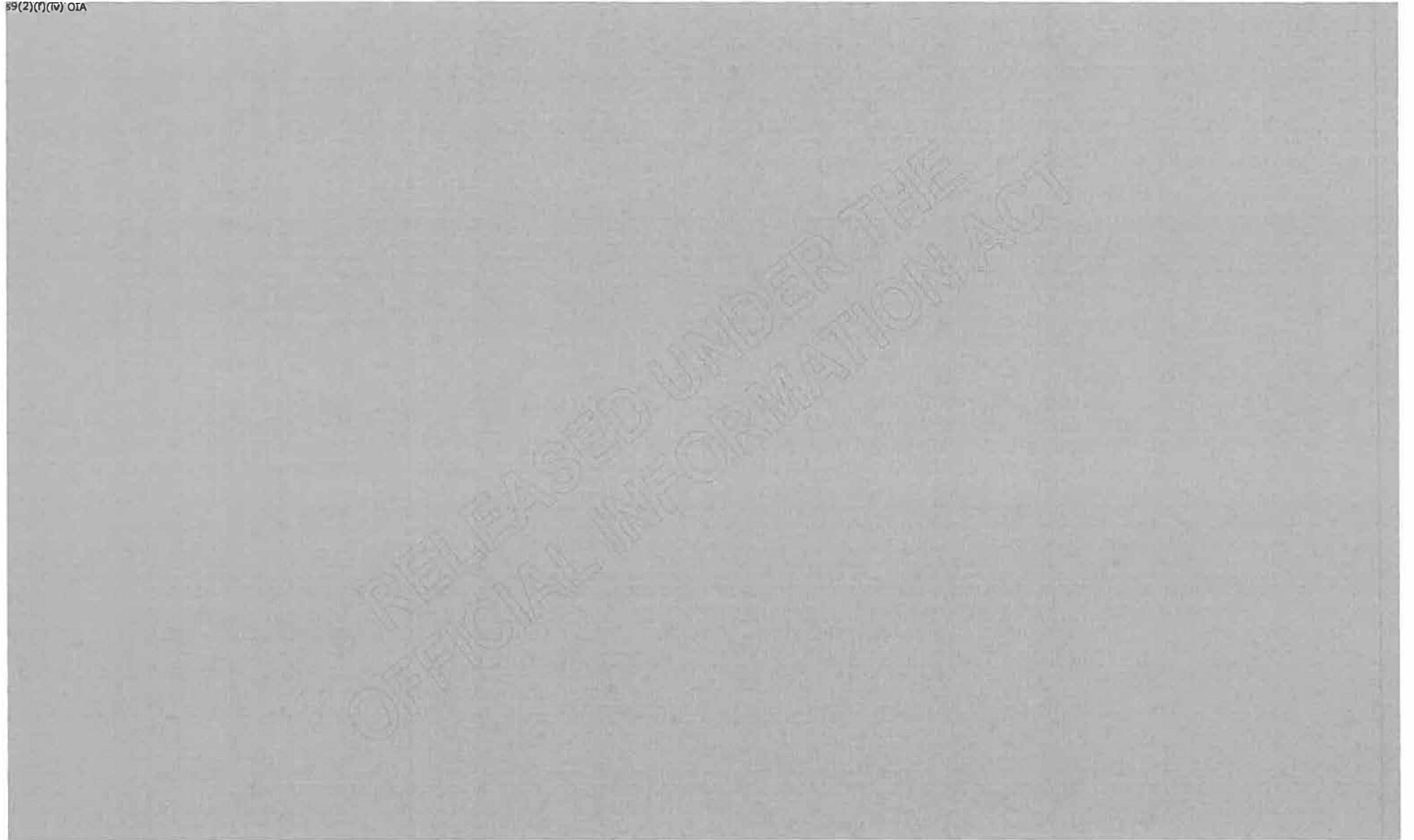
The purpose of the Social Security Act is—

- a. to enable the provision of financial and other support as appropriate—
 - i. to help people to support themselves and their dependants while not in paid employment; and
 - ii. to help people to find or retain paid employment; and
 - iii. to help people for whom work is not currently appropriate—because of sickness, injury, disability, or caring responsibilities—to support themselves and their dependants:
- b. to enable in certain circumstances the provision of financial support to people to help alleviate hardship:
- c. to ensure that the financial support referred to in paragraphs (a) and (b) is provided to people taking into account—
 - i. that, where appropriate, they should use the resources available to them before seeking financial support under this Act; and
 - ii. any financial support that they are eligible for or already receive, otherwise than under this Act, from publicly funded sources:
- d. to provide services to encourage and help young people to move to or remain in education, training, and employment, rather than receiving financial support under this Act:
- e. to impose, on the following specified people or young people, the following specified requirements or obligations:
 - i. on people seeking or receiving financial support under this Act, administrative and, where appropriate, work-related requirements; and
 - ii. on young people who are seeking or receiving financial support under this Act, educational, budget management, and (where appropriate) parenting requirements; and
 - iii. on people receiving certain financial support under this Act, obligations relating to the education and primary health care of their dependent children.

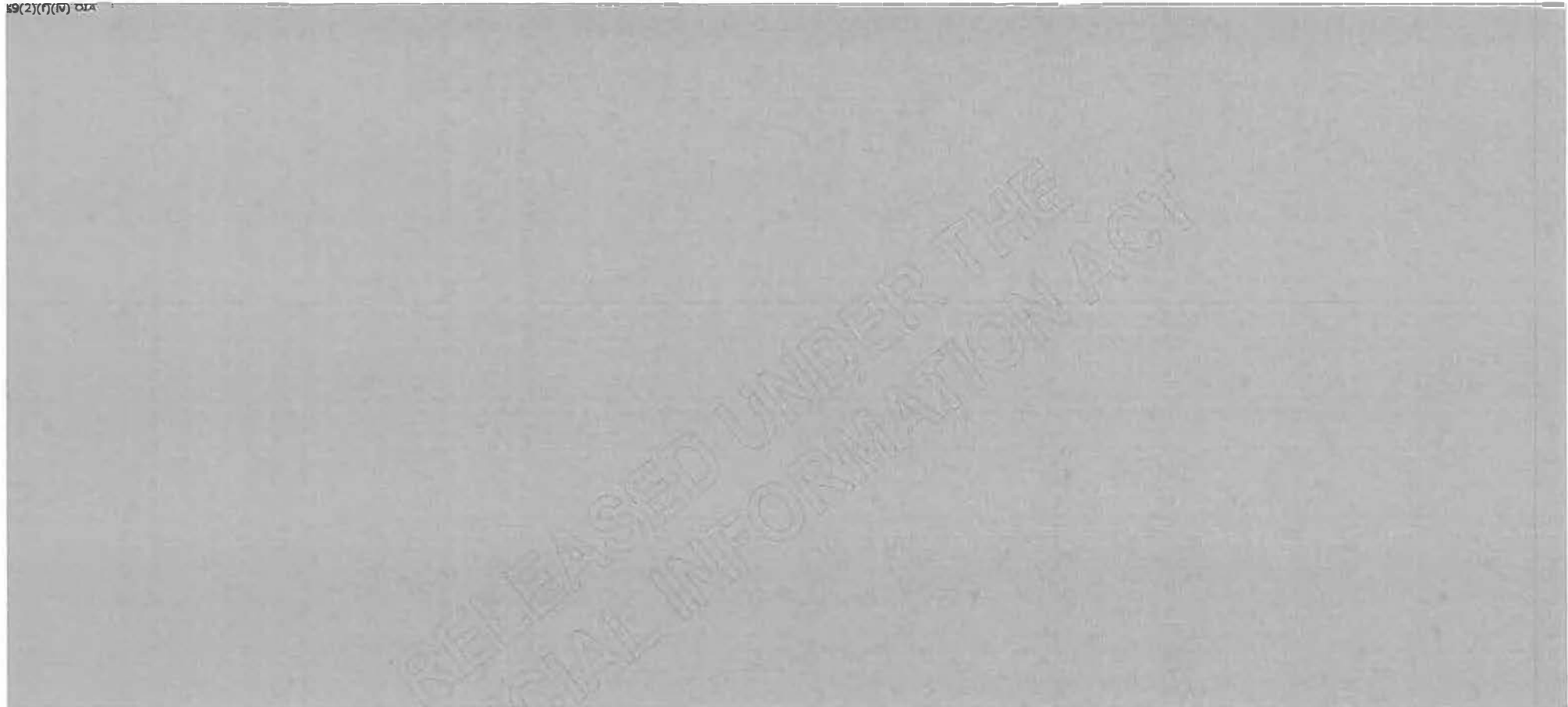
Principles

Every person performing or exercising a duty, function, or power under the Social Security Act must have regard to the following general principles:

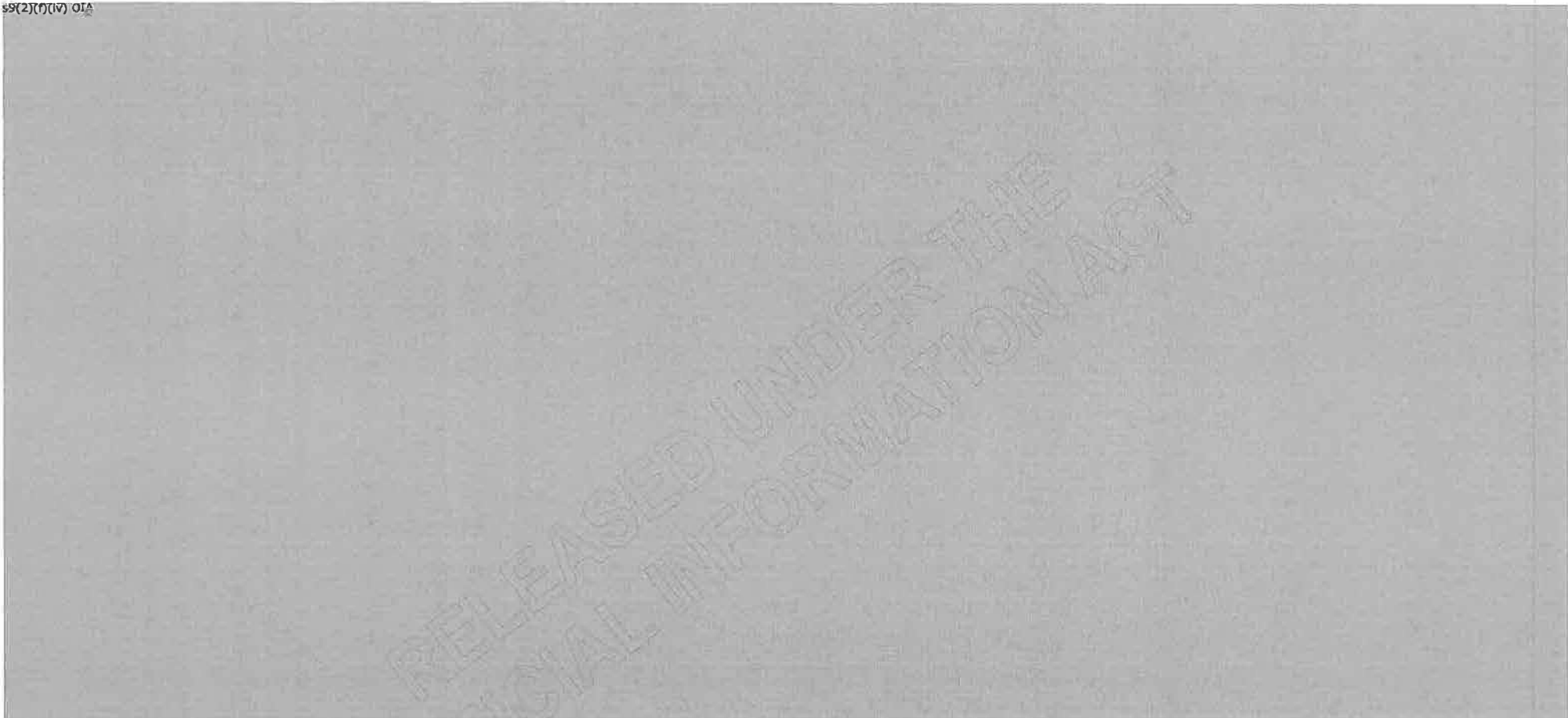
- a. work in paid employment offers the best opportunity for people to achieve social and economic well-being:
- b. the priority for people of working age should be to find and retain work:
- c. people for whom work may not currently be an appropriate outcome should be assisted to prepare for work in the future and develop employment-focused skills:
- d. people for whom work is not appropriate should be supported in accordance with this Act.



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