



Report

Date: 6 May 2021

Security Level: IN CONFIDENCE

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

Welfare Overhaul: Confirming the scope for the review of work obligations and sanctions

Purpose of the report

- 1 You are asked to agree to the scope for the review of work obligations and sanctions. You are also asked to agree to the proposed objectives and criteria for the review.

Executive summary

- 2 Obligations and sanctions are being reviewed as part of the welfare overhaul medium-term work programme. The Welfare Expert Advisory Group recommended that obligations and sanctions should be reviewed and changed into a system of mutual expectations and responsibilities.
- 3 You agreed to review obligations and sanctions in two phases [REP/20/7/804 refers]. Phase one of the review is underway and you will receive advice on options in due course.¹ The review of work obligations is phase two of the review. The scope of phase two of the review has not been confirmed.
- 4 The current work obligations and sanctions regime places many obligations on clients. The available evidence does not provide a conclusive answer to whether obligations (and corresponding sanctions) in welfare benefit systems bring about desired behavioural changes, and whether the positive effects outweigh the negative effects. The review will provide an opportunity to assess the Ministry of Social Development's (MSD) role in supporting those with work obligations and ensure the welfare system ensures wellbeing outcomes.

5 s9(2)(f)(iv)

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¹Phase One includes the Comprehensive Work Assessment (as part of 52 week re-applications), Pre-employment drug testing, Social Obligations and Warrants to Arrest.

s9(2)(f)(iv)

7 Any changes to work obligations and sanctions will have a significant impact on Māori as they are overrepresented in the welfare system. To ensure any proposed changes to the obligations and sanctions regime reflect the needs of Māori, we have referenced a whānau-centric approach to help Māori achieve their aspirations in the proposed objectives.

8 s9(2)(f)(iv)

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10 If you agree to the proposed scope, objectives, and criteria for the review, we will develop options for amending the work obligations and sanctions regime to meet the proposed objectives. We will provide you with a report on options for amending the obligations and sanctions regime and indicative costings in late 2021. s9(2)(f)(iv)

Recommended actions

It is recommended that you:

- 1 **note** the Welfare Expert Advisory Group recommended reforming the obligations and sanctions regime into a system of mutual expectations and responsibilities
- 2 **note** obligations and sanctions are being reviewed as part of the medium-term work programme of the welfare overhaul to ensure they are designed and implemented to support wellbeing outcomes
- 3 **note** Cabinet has previously agreed that removing all obligations and sanctions are out of scope [CAB-19-MIN-0170 refers] and that the impact on children of the regime should be central to the review.

4 **note** you have previously confirmed that employment should continue to be the priority expectation of people who are able to work [REP/19/7/634 refers]

5 s9(2)(f)(iv)

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7 s9(2)(f)(iv)



- 8 **note** any changes to work obligations and sanctions will have a significant impact on Māori as they are overrepresented in the welfare system and we will be engaging with Māori on the review and options development
- 9 **note** we will provide you with a report with options for amending the obligations and sanctions regime with indicative costings where possible, in late 2021.

Leah Asmus
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 recommend implementing a mutual expectations framework

- 11 The Welfare Expert Advisory Group (WEAG) provided their final advice on reforming the welfare system in February 2019. The WEAG recommended reforming the obligations and sanctions regime into a system of mutual expectations and responsibilities applied according to the circumstances of the individual.
- 12 The WEAG recommended removing the following obligations and sanctions:
 - pre-benefit obligations to complete specific activities before a benefit is granted
 - the sanction that stops benefit payments if people have a warrant out for their arrest
 - social obligations that require people to take all reasonable steps to enrol their children with a primary health care provider, be up to date with their core Well Child/Tamariki Ora checks, and be enrolled in and attending early childhood education (ECE) or school. Young parents may also be required to attend a parenting education programme
 - pre-employment drug testing requirements
 - the mandatory work ability assessment for people with health conditions or a disability
 - mandatory 52-week reapplication process
 - subsequent child rule
 - sanctions for not naming the other parent.
- 13 The WEAG argued that there is little evidence in support of using obligations and sanctions in the current system to change behaviour and there is research indicating that they compound social harm and disconnectedness. The WEAG advised that recent studies recommend moving away from such an approach towards more personalised services.

The Government agreed to review the obligations and sanctions regime as part of the welfare overhaul

- 14 On 6 November 2019, Cabinet agreed to a short, medium and long-term work programme for the welfare overhaul to achieve the Government's vision of 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.
- 15 The welfare overhaul medium-term work programme includes the review of all obligations and sanctions in the Social Security Act 2018 (SSA) and relevant regulations [CAB-19-MIN-0578 refers]. This includes a review of obligations and sanctions that have an impact on children, and ensuring the regime is designed and implemented to support wellbeing outcomes [SWC-19-MIN-0168 refers]. Cabinet made no further decisions on the scope of the review of obligations and sanctions.

You agreed to review obligations and sanctions in two phases

- 16 In July 2020, you agreed to progress the review of obligations and sanctions in two phases. Phase one included a review of:
 - Pre-employment drug tests - requires people receiving a main benefit to take and pass a drug test if it is part of the application process for a job or training course, and they have part-time or full-time work obligations. An obligation failure is initiated if, without good and sufficient reason, the client fails or refuses a drug test, or refuses to apply for a job as they will not pass a drug test. This can result in a sanction being imposed.

- Warrants to arrest – a client who has a warrant to arrest may have their benefit reduced or suspended if they do not take reasonable steps to resolve their warrant to arrest.
 - Social obligations – requires clients to take all reasonable steps to meet specific health and education outcomes for their child or risk having their benefit sanctioned.
 - Comprehensive Work Assessment (CWA) – a compulsory part of the 52-week reapplication process for clients and partners with work obligations which focuses on reassessing the client’s work capacity and which work obligations are appropriate for them (the other part of the reapplication assesses ongoing eligibility).
- 17 These obligations are being reviewed as part of phase one of the review of obligations and sanctions as they were advised to have an immediate impact on client experience and on children.
- 18 You received advice on social obligations on 30 April 2021 [REP/21/4/350 refers].
s9(2)(f)(iv)
[REDACTED]
- 19 You will receive advice on pre-employment drug tests and warrants to arrest in due course.
- 20 s9(2)(f)(iv)
[REDACTED]
- 21 The sanction for failing to assist child support (not naming the liable parent) was removed on 1 April 2020. The Cabinet Legislation Committee has also approved the introduction of a Bill to remove the subsequent child policy.

You are asked to agree to the proposed scope of phase two of the review of obligations and sanctions

- 22 You are asked to confirm the scope of phase two of the review of obligations and sanctions. There have been no further decisions on the scope of the review of work obligations and sanctions since the advice we provided in July 2020.
- 23 Cabinet has previously agreed that removing all obligations and sanctions are out of scope [CAB-19-MIN-0170 refers] and that the impact on children of the regime should be central to the review. You have confirmed that employment should continue to be the priority expectation of people who are able to work [REP/19/7/634 refers].

Early analysis has identified some issues in the work obligations and sanctions system

The available evidence is not clear on whether applying work obligations leads to higher exit rates off benefit into work

- 24 The Rapid Evidence Review on obligations and sanctions completed by MSD for the WEAG in 2019 noted the available evidence does not provide a conclusive answer to whether obligations (and corresponding sanctions) in welfare benefit systems bring about desired behavioural changes, and whether the positive effects outweigh the negative effects.²

²Ministry of Social Development, Obligations and Sanctions Rapid Evidence Review Paper 1: An Overview, p. 1

- 25 As reasons for people exiting benefits into employment vary and are confounded with other drivers and policy settings in the system, it is hard to isolate the impact of work obligations on sustainable employment outcomes.³ The review is an opportunity to determine what system of obligations will best support people into work.

The impact of work-related sanctions in New Zealand is not clear

- 26 There is limited research on the impact of work-related sanctions in New Zealand, with some evidence on effects from international studies. Some New Zealand-based studies have found themes of frustration and disengagement from the system that is considered hostile and complex.⁴
- 27 There is some limited evidence from interviews with clients that sanctions can lead to clients engaging with the system and stepping up job search efforts.⁵ Anecdotal evidence from within MSD and the National Beneficiaries Advocates Consultative Group also points to sanctions as prompting clients who have disengaged to engage with the system again.
- 28 International studies also point to regimes less severe than New Zealand's current regime being effective in increasing movements from benefits to work. Harsh sanction regimes can drive people away from employment and might worsen rather than improve the long-term impacts on children and families affected.⁶

The current system places many obligations on clients

- 29 Clients are required under the SSA to meet a range of obligations, including but not limited to looking for full time or part-time work, requirements to attend appointments at MSD, accept any suitable job offers, and update MSD on any changes to their circumstances.
- 30 MSD has three obligations under the SSA, i.e. ensuring clients are aware of their obligations and consequences of non-compliance, take reasonable steps to explain overseas absence rules and their effects on benefits, and taking reasonable steps to assist clients' compliance with overseas pension obligations. MSD does support clients through employment services, advice on training and referral to other services. These services can be inconsistently applied and can vary between regions.

Sanctions are applied inconsistently between regions, and Māori are being sanctioned at higher rates than other ethnic groups

- 31 Applying an obligation failure, which can lead to a sanction, requires frontline staff to use discretion to decide whether a person has a good or sufficient reason for not meeting an obligation. This discretion has led to variations in how sanctions are applied between regions.
- 32 Data from across regional offices also shows that sanctions are applied to Māori at a higher rate than non-Māori. Table 1 outlines data on sanction rates by ethnicity for the last five years:

³ Ministry of Social Development, Obligations and Sanctions Rapid Evidence Review Paper 1: An Overview, p. 8

⁴ Auckland City Mission, 2014

⁵ Ministry of Social Development, Obligations and Sanctions Rapid Evidence Review Paper 2: Work Related Sanctions, p. 19

⁶ Ibid p. 20

Table 1 - Number of work sanctions applied annually⁷

Ethnicity ⁸	2016		2017		2018		2019		2020	
	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage
Māori	27,294	53%	30,048	50%	20,457	45%	17,916	41%	6,396	35%
NZ European	12,957	25%	13,491	22%	8,370	19%	7,560	17%	3,207	17%
All other groups	10,962	21%	17,172	28%	16,191	36%	18,489	42%	8,802	48%
TOTAL⁹	51,219	100%	60,708	100%	45,018	100%	43,956	100%	18,408	100%

s9(2)(f)(iv)

34 Considering these questions will support the development of options to align the obligations and sanctions system with the proposed objective for the work obligations and sanctions system. It will also provide an opportunity to look at what a system of mutual expectations and responsibilities could look like, and MSD's role in supporting those with work obligations.

s9(2)(f)(iv)

⁷'Annual' means 1 January to 31 December each year.

⁸Ethnicity data is self-identified and multiple ethnicities may be chosen by an individual as fits their preference or self-concept. Multiple ethnicities are prioritised into a hierarchy, with the Māori ethnicity having the highest priority. NZ European has the lowest priority.

⁹Due to random rounding during data processing, all columns do not add up to column totals, and all percentages do not add up to 100 due to decimal rounding.

s9(2)(f)(iv)

s9(2)(f)(iv)

- 36 You agreed to reinstate the Training Incentive Allowance (TIA) from 1 July 2021, subject to funding through Budget 2021 (REP/20/11/1133). The reinstated TIA will support degree-level study and below. The TIA is available to sole parents receiving Sole Parent Support (SPS), Youth Parent Payments or Emergency Maintenance Allowance, and people with disabilities and carers receiving the Supported Living Payment. You have recently agreed to expand eligibility to include sole parents receiving Jobseeker (JS), due to their youngest dependent child being 14 years or older.
- 37 Those studying full-time are not currently eligible for JS. As part of reinstating the TIA, you agreed to make the changes within current legislative settings, which means the TIA will only be available for sole parents studying part time, and sole parents wanting to study full time will still need to get support through the Student Allowance.

38 s9(2)(f)(iv)

s9(2)(f)(iv)

- 39 The role of volunteering in communities have been acknowledged by the Government as well as the WEAG. The WEAG noted that volunteering could enable people in receipt of a benefit to:
- participate meaningfully in their communities
 - develop knowledge, skills and work habits that contribute to work readiness
 - support the community infrastructure that enables people with a health condition or disability or with caring responsibilities to meaningfully participate in communities.
- 40 We have previously advised against making volunteering a formal part of the benefit system [REP/19/6/537 refers]. There are various risks associated with requiring volunteering as a work obligation, including the potential for clients to perceive a link between volunteering and their receipt of benefit payments.

41 s9(2)(f)(iv)

The proposed objectives align with the Government's vision for the welfare system

- 42 You are asked to agree to the proposed objectives for the work obligations and sanctions system. The objectives incorporate previous decisions by Cabinet, the WEAG recommendations and previous direction provided by you through reports.

¹⁰Under current settings, sole parents on SPS can get an exemption from work obligations to study full time at levels 4 and above under the New Zealand Qualifications Framework.

43 s9(2)(f)(iv)

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Proposed options for change will be assessed against the proposed criteria

45 You are also asked to agree to the proposed criteria for the review. The criteria have been developed to ensure future options align with the proposed objective of the review. s9(2)(f)(iv)

s9(2)(f)(iv)

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Links to other Government strategies and frameworks

47 The proposed objectives reference wellbeing, employment and caring for dependents. These concepts are defined and link to various Government and MSD strategies:

- New Zealand Employment Strategy
- Child and Youth Wellbeing Strategy
- The Treasury’s Living Standards Framework
- MSD’s Employment and Investment Strategy
- MSD’s Te Pae Tawhiti, Te Pae Tata and Pacific Prosperity
- New Zealand Carer’s Strategy

48 The review will consider these strategies and related frameworks when developing and assessing options.

There will be implementation implications if the system is amended

- 49 Any changes to work obligations and sanctions will have financial and operational impacts. s9(2)(f)(iv)
- 50 Any changes to work obligations and sanctions will require amendments to the SSA. Further advice will be provided on legislative implications alongside policy options.
- 51 Impacts on MSD's IT systems and implementation timelines will be considered and included in the advice later this year. s9(2)(f)(iv)

Māori will be significantly impacted by any changes to the obligations and sanctions regime

- 52 Any changes made to the obligations and sanctions regime are likely to have a significant impact on Māori. This is because Māori are overrepresented in the welfare system, making up approximately 36 percent of all working people receiving a benefit as a primary benefit recipient and are at risk of long-term welfare dependency.
- 53 To ensure any proposed changes to the obligations and sanctions regime reflect the needs of Māori, we have referenced a whānau-centric approach to help Māori have a say in their pathway to independence and support them to achieve their aspirations in the proposed objectives. We have also included alignment with The Treaty of Waitangi and Kaupapa Māori values from MSD's working policy framework as part of the proposed criteria for assessing options.
- 54 s9(2)(f)(iv)

Te Pae Tata provides a valuable framework for considering future options for change

- 55 Te Pae Tata, MSD's Māori strategy and action plan, outlines three key shifts that need to occur to achieve better outcomes for New Zealanders. The three 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
- 56 Te Pae Tata focuses on how these key shifts will be realised for Māori, in accordance with feedback from whānau, hapū and iwi. It will provide a useful framework during options development to ensure proposals are aligned with the three key shifts for Māori outlined in the strategy.
- 57 Amending the work obligations and sanctions regime to meet the proposed objectives will support the three key shifts through ensuring a whānau-centred approach that treats people with dignity and respect, providing for Māori to have a say in how the system operates and applies to them to support genuine partnership, and supporting long-term financial and economic development through supporting Māori aspirations and pathways to independence.

Through consultation on Te Pae Tata and by the WEAG, Māori have told MSD how the benefit system should support them

- 58 Through initial consultation on Te Pae Tata, whānau told us that Māori want:

- Good health – Whānau, hapū and iwi are active and healthy with positive physical, mental, spiritual, and cultural wellbeing
 - Success - Whānau, hapū and iwi are realising their potential and living their dreams
 - Aroha - Whānau, hapū and iwi are supported, cared for and protected
 - Economic security - Whānau, hapū and iwi have adequate incomes and resources to support quality standards of living
 - Connectedness - Whānau, hapū and iwi are valued and have a strong sense of place and belonging.
- 59 The work obligations and sanctions system impact all these areas. To meet the expectations of Māori, we will need to take these outcomes into account during options development.
- 60 MSD conducted further consultation with whānau (users of frontline services who identify as Māori), providers (both Kaupapa Māori and mainstream), and staff (Māori and non-Māori) on Te Pae Tata’s development. MSD received over 5,000 responses. Detailed analysis of the responses is in progress and will provide further evidence for how MSD can change the obligations and sanctions system to support the aspirations of Māori.
- 61 Through the WEAG consultation process, Māori identified the ongoing impact of colonisation as an underlying cause of welfare dependency, and that the welfare system is individualised and fails to consider the role of whānau. Through the same WEAG consultation process, Māori recommended significant improvements to the welfare system in its cultural awareness and responsiveness, providing opportunities for Māori to determine how their needs are met, and the inclusion of iwi in the design and delivery of welfare support.

Next steps

- 62 If you agree to the scope, objectives and criteria, we will develop options for amending the work obligations and sanctions regime to meet the proposed objectives. s9(2)(f)(iv)

- 63 s9(2)(f)(iv)

- 64 As we progress this work, we will consider whether different parts of the work obligations and sanctions system should be prioritised and could be progressed on a shorter timeframe.

- 65 We will provide you with a report on options for amending the obligations and sanctions regime in late 2021, including implementation considerations and, where possible, indicative costings. s9(2)(f)(iv)

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