



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 [REDACTED]
- 8 9(2)(g)(i) OIA [REDACTED]

9(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.

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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

5 9(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 9(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 Opetara
Christian Opetara
Policy Manager
Welfare System and Income Support Policy

17/06/21
Date

[Signature]
Hon Carmel Sepuloni
Minister for Social Development and Employment

20/6/21
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. 9(2)(g)(i) OIA
[REDACTED]
- 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

[REDACTED]

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.

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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

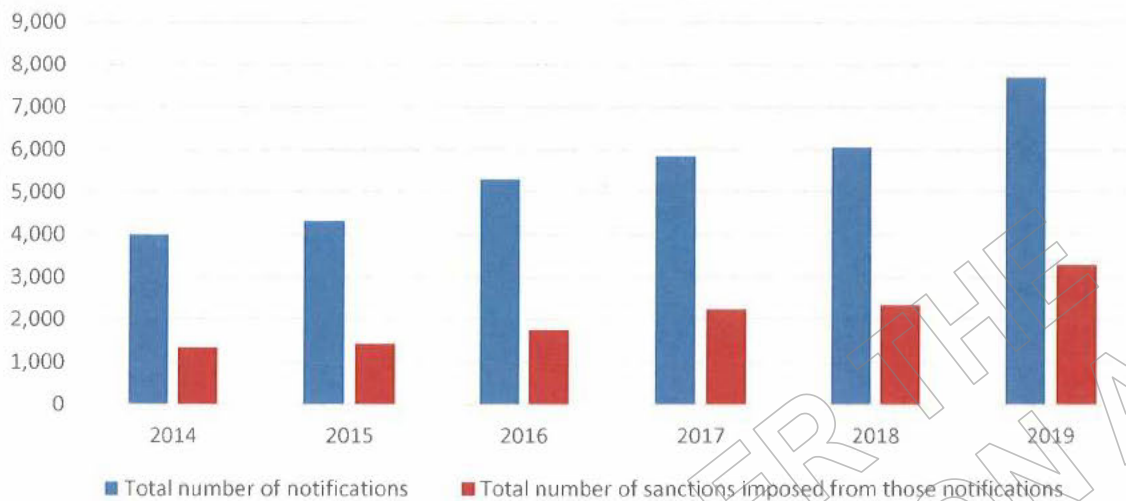
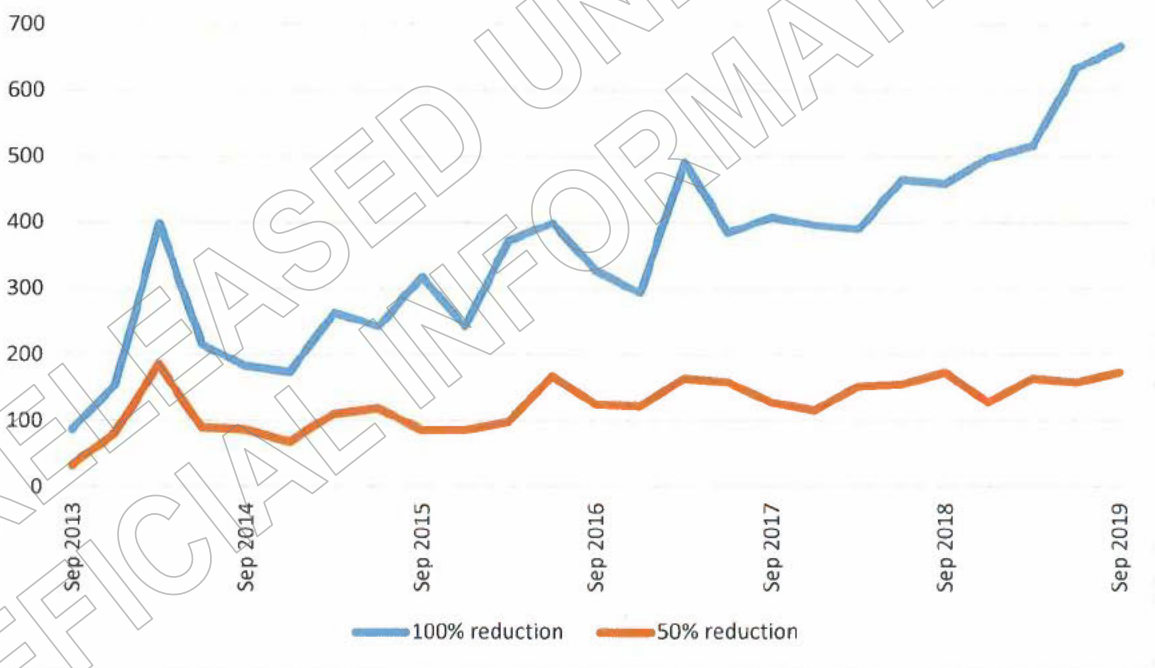


Figure 2 - Number of warrants to arrest sanction recipients each quarter by sanction type



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).

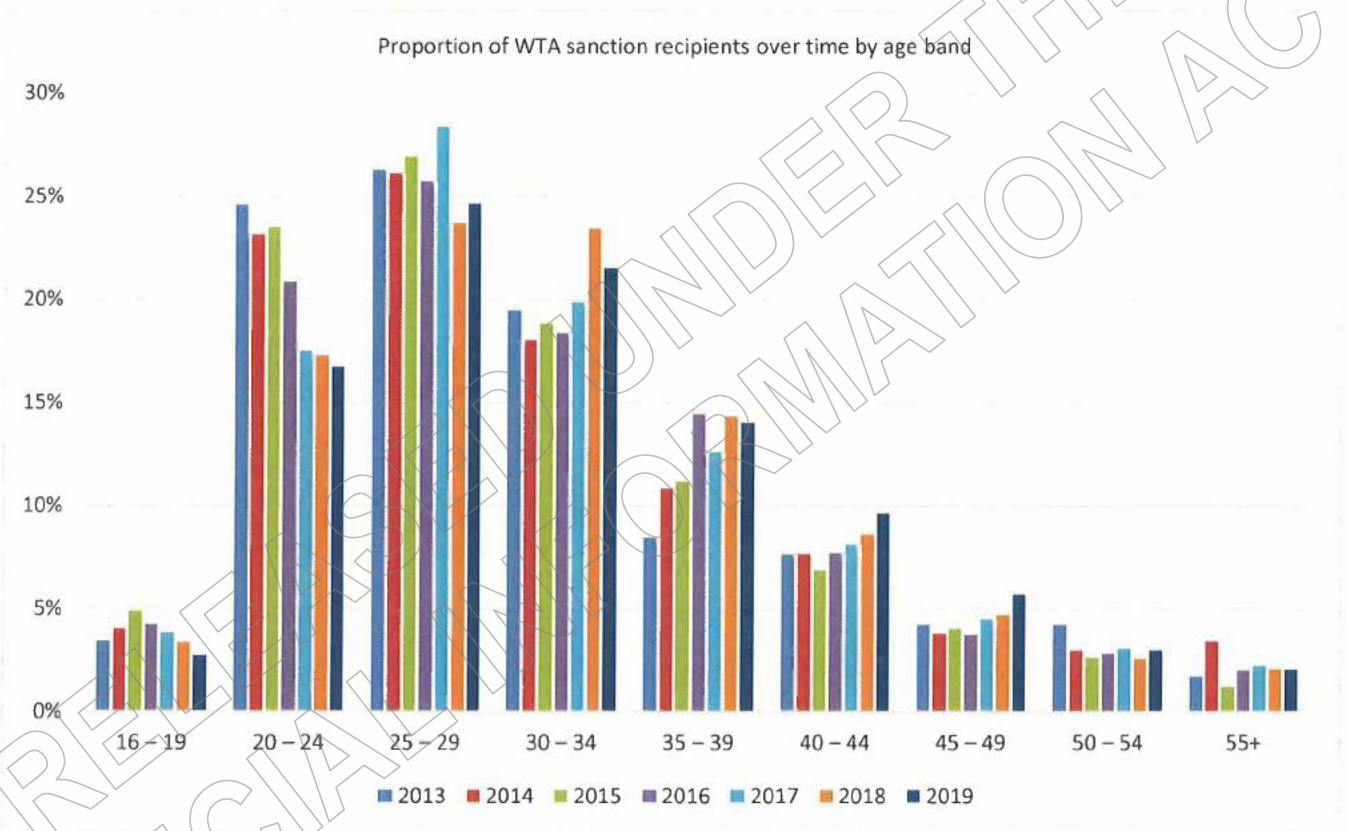
behaviour depends on different factors and will require further work with Police and Ministry of Justice.

- 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.

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. 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.

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9(2)(f)(iv)
OIA

to

Warrant to Arrest Sanction

9(2)(f)(iv) OIA

53 9(2)(f)(iv) OIA

Reference: REP/21/5/528

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

WELFARE REFORM – WARRANTS TO ARREST – PROCESS OVERVIEW

