

**MINISTRY OF SOCIAL
DEVELOPMENT**

TE MANATŪ WHAKAHIATO ORA

24 May 2022

Dear

On 19 April 2022, you emailed the Ministry of Social Development (MSD) requesting, under the Official Information Act 1982 (the Act), the following information:

1. *Please provide your current guidelines in relation to the eligibility for the Residential Care Subsidy.*
2. *In particular, please provide any current guidelines or any other material relating to the impact a relationship property agreement would have on a spouse or partner's liability to provide financial support for a spouse or partner that has to go into residential care.*

With regard to the first part of your request, some of the guidelines are publicly available at:

- <https://www.workandincome.govt.nz/map/income-support/extra-help/residential-care-subsidy/index.html>.

These guidelines are detailed further in the enclosed document 'Residential Care Subsidy', dated October 2014. Please note that as this document has not been updated since, some references to legislation are now out of date.

With regard to the second part of your request, please refer to the following link:

- <https://www.workandincome.govt.nz/map/income-support/extra-help/residential-care-subsidy/client-with-a-partner-01.html>.

The definition of assets can be found under schedule 2, clause 4 Residential Care and Disability Support Services Act 2018:

- <https://www.legislation.govt.nz/act/public/2018/0033/8.0/LMS41711.html>

The enclosed document refers to relationship property agreements on pages 8, 16 and 38.

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
- to lead to greater accountability in the conduct of public affairs.

MSD fully supports those principles and purposes. MSD therefore intends to make the information contained in this letter and any attached documents available to the wider public. MSD will do this by publishing this letter on its website. Your personal details will be deleted and MSD 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 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

Bridget Saunders

Bridget Saunders
**Manager, Issue Resolution
Service Delivery**

Introduction

Residential Care Subsidy is a subsidy provided by the Ministry of Health funded through the District Health Boards. The subsidy assists with the cost of contracted care for a client in long-term residential care in a hospital or rest home indefinitely.

Generally, the amount of subsidy is the difference between the cost of contracted care and the amount a client is required to contribute for that care.

[Senior Services - residential care](#) assess a client's financial eligibility to Residential Care Subsidy and the income contribution from their own resources they are required to make. The Ministry of Health is responsible for the payment of Residential Care Subsidy to the hospital or rest home where the client resides.

For more information see:

- [Qualifications](#)
- [Changes and reviews](#)

Legislation

- [Social Security \(Long-term Residential Care\) Regulations 2005](#)

Qualifications

To be eligible for Residential Care Subsidy, a client must be eligible for publicly funded health and disability services and be aged:

- 65 years or over **or**
- between 50 and 64, single with no dependent children

and they must:

- have been needs assessed as requiring long-term residential care in a hospital or rest home indefinitely **and**
- be financially eligible as determined by a financial means assessment.

Note eligibility to publicly funded health and disability services is determined by the Needs Assessor on behalf of the District Health Board.

For more information see:

- [Needs assessment](#)
- [Financial Means Assessment](#)
- [Means assessment of assets](#)
- [Means assessment of income](#)
- [Benefit or Pension contribution](#)
- [Client with a partner in the community](#)

Legislation

- eligible person (definition) [section 136](#) Social Security Act 1964
- Needs assessment [section 137](#) Social Security Act 1964
- Ministerial Direction authorised under section 32 and 112 Eligible New Zealand Public Health and Disability Act 2000

Needs assessment

The District Health Boards contract Needs Assessment Service Co-ordination Agencies to perform the needs assessment.

The Needs Assessment Service Co-ordination Agency determines if a client requires long-term residential care in a hospital or rest home indefinitely.

Needs Assessment Certificate

The Needs Assessment Certificate confirms that the client meets the criteria for a financial means assessment to be completed, including that:

- the client is eligible for publicly funded health and disability services **and**
- the client has been needs assessed as requiring long term residential care in a hospital or rest home indefinitely

Note a full copy of the needs assessment is not required to process a financial means assessment for Residential Care Subsidy, only the Needs Assessment Certificate is required.

For more information see:

- [Qualifications](#)
- [Financial Means Assessment](#)

Legislation

- Eligibility [section 136](#) Social Security Act 1964
- Needs assessment [section 137](#) Social Security Act 1964
- New Zealand Public Health and Disability Act 2000

Financial means assessment

The financial means assessment determines if a client is financially eligible to receive Residential Care Subsidy and the contribution a client is required to make towards the cost of their contracted care services.

The Residential Care Subsidy Financial Means Assessment form must be accompanied by the completed Needs Assessment Certificate.

Note Needs Assessment Service Co-ordination Agencies are responsible for distributing the Residential Care Subsidy Financial Means Assessment forms to clients. The Residential Care Subsidy Financial Means Assessment form is only given to an eligible person.

There are two parts to the financial means assessment:

- means assessment of assets
determines if a client is financially eligible by assessing if a client's assets are at or below the applicable threshold
- means assessment of income
determines the contribution a client is required to make towards the cost of their contracted care services

Note the means assessment of income is only completed when the means assessment of assets has determined a client is financially eligible.

For more information see:

- [Financial means assessment quick reference table](#)
- [Means assessment of assets](#)
- [Means assessment of income](#)
- [Accepting forms](#) procedures
- [Timeliness](#) procedures

Legislation

- Means assessment of assets [section 144](#) Social Security Act 1964

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Means assessment of assets

The means assessment of assets determines if a client's assets are equal to or below the applicable threshold and only applies to clients aged 65 years or over.

Note clients aged between 50 and 64 years who are single with no dependent children are automatically determined as having assets equal to or below the threshold.

Clients, who have assets equal to or below the threshold, are deemed as financially eligible and will receive the Residential Care Subsidy. If their assets are above the threshold they are liable to pay for the cost of their contracted care up to the maximum amount set for their region by the Ministry of Health.

Clients who are financially eligible for Residential Care Subsidy must have the means assessment of income completed to determine the amount they are required to contribute to the cost of their contracted care.

For more information see:

- [Financial means assessment](#)
- [Assets](#)
- [Asset thresholds](#)
- [Clients with a partner](#)
- [Election process](#)
- [Exempt assets](#)
- [Date of Financial Eligibility](#)
- [Qualifications](#)
- [Maximum contribution](#)
- [Deprivation of assets and income](#)
- Residential Care Subsidy [Asset verification](#) procedures
- Residential Care Subsidy processing standards [Advice of outcome of financial](#)

[means assessment](#)

Legislation

- Means assessment of assets [section 144](#) Social Security Act 1964
- Notice of means assessment of assets [section 146](#) Social Security Act 1964

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Clients with a partner

When a client is aged 65 years or over and has a partner, the partner's assets are included in the means assessment of assets to determine if the client has assets equal to or below the applicable threshold.

Even if the partner regards his or her assets as their own separate property, they are still included in the means assessment. If they are subject to a Relationship (Property) Act 1976 agreement, then the separate property assets will still be taken into account unless the couple have separated.

Note that separation for residential care purposes cannot occur solely because one partner is in residential care or is unable to affirm their vows.

The partner's income is also included in the means assessment of income to determine the client's contribution towards the cost of their care.

A partner, in relation to the client, means a person who is either:

- legally married to or in a civil union with the client **or**
- has a defacto relationship with the client

A client is not considered as single for the purposes of a Financial Means Assessment if they are living apart only because one partner is in residential care, or is unable to reaffirm their marriage or civil union.

Note the process for determining marital status for benefit purposes is different to the above.

For more information see:

- [Assets](#)
- [Asset thresholds](#)
- [Exempt assets](#)
- [Means assessment of assets](#)
- [Means assessment of income](#)

- [Income](#)
- [Income excluded](#)
- [Clients with a partner in the community](#)

Legislation

- Conjugal status for purposes of means assessment [section 151](#) Social Security Act 1964
- Definition of assets clause 4 Part 2 [Schedule 27](#) Social Security Act 1964
- Definition of income clause 5 Part 3 [Schedule 27](#) Social Security Act 1964

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Asset thresholds

To be financially eligible for Residential Care Subsidy, clients aged 65 years or over must have assets equal to or below the applicable threshold.

The threshold is dependent on the client's circumstances:

Client circumstance	Asset limit (as at 1 July 2014)
Single client	\$218,423
Couple - both in care	\$218,423
Couple - one partner is living in the community	\$119,614* (excluding family home and car) or \$218,423 (including family home and car)

*This is automatically applied to couples where one partner is living in the community (not assessed as requiring care). The client may elect to have the \$218,423 (as at 1 July 2014) threshold applied to their financial means assessment.

For previous asset thresholds see: Deskfile [Asset thresholds](#)

For more information see:

- [Election process](#)
- [Clients with a partner](#)

Other assistance

Clients who are not financially eligible for Residential Care Subsidy due to excess assets and who have been needs assessed as requiring long-term residential care in a hospital or rest home indefinitely may be offered a Residential Care Loan.

For more information see:

- [Residential Care Loan](#)
- [Client not financially eligible for Residential Care Subsidy](#)
- [Means assessment of assets](#)

- [Assets](#)
- Residential Care Subsidy processing standards [Advice of outcome of financial means assessment](#)
- Residential Care Subsidy [Review actions](#) procedures

Legislation

- Applicable asset threshold [schedule 27 \(part 1\)](#) Social Security Act 1964

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Election process

Clients who have a partner who is not a resident assessed as requiring care automatically have the \$119,614 (as at 1 July 2014) threshold applied. They may elect to have the higher \$218,423 (as at 1 July 2014) threshold applied to their means assessment of assets.

Note only clients who have a partner who is not a resident assessed as requiring care are able to elect the asset threshold applied to their means assessment of assets.

If the \$119,614 (as at 1 July 2014) threshold is applied, the family home and/or one car (if they have one) are exempt from the means assessment of assets providing:

- the **family home** is the principal place of residence of the client's partner or dependent child
- the **car** is for the personal use of the client's partner

If the client elects the \$218,423 (as at 1 July 2014) threshold the current value of the family home and car must be included in the means assessment of assets.

Note where a client reapplies for a financial means assessment (a review), the lower threshold will apply and they are able to elect the higher threshold.

For previous asset thresholds see: Deskfile [Asset thresholds](#)

For more information see:

- [Election process examples](#)
- [Exempt assets](#)

Legislation

- Applicable asset threshold [schedule 27 \(part 1\)](#) Social Security Act 1964

Election process examples

Example 1

A couple own their own home which is worth \$250,000 and a car worth \$15,000. They also have \$60,000 worth of investments. One partner enters residential care and the other partner continues to live in the family home.

The lower threshold of \$119,614 (as at 1 July 2014) applies automatically. This allows the house and car to be exempt from the financial means assessment and their investments of \$60,000 are below the asset threshold of \$119,614 (as at 1 July 2014). It is unlikely that the client will elect the higher threshold of \$218,423 (as at 1 July 2014).

Example 2

A couple own their own home which is worth \$80,000 and also have investments worth \$120,000. They do not own a car. One partner enters residential care and the other partner continues to live in the family home.

The lower threshold of \$119,614 (as at 1 July 2014) applies automatically. It is likely that the client will elect the higher asset threshold of \$218,423 (as at 1 July 2014) and have the house included in the financial means assessment as their assets (excluding their family home) are above \$119,614 (as at 1 July 2014). Their total assets of \$200,000 are below the higher asset threshold of \$218,423 (as at 1 July 2014).

Example 3

A couple do not own a home (as they are living with their daughter) but have a car valued at \$6,000 and investments totalling \$140,000. One partner goes into care.

The lower threshold of \$119,614 (as at 1 July 2014) applies automatically. It is likely that the client will elect the higher asset threshold of \$218,423 (as at 1 July 2014) as they do not own a family home and their assets are above \$119,614 (as at 1 July 2014) and have the car included in the financial means assessment. Their total assets of \$146,000 are below the higher threshold of \$218,423 (as at 1 July 2014).

For previous asset thresholds see:

- Deskfile [Asset thresholds](#)
- [Assets](#)

Legislation

- Means assessment as to assets [schedule 27 \(part 2\)](#) Social Security Act 1964

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Assets

When completing a means assessment of assets, you must include the [realisable assets](#) of the client and their partner (if they have one).

Value of the assets

The value of the assets is determined by:

- excluding exempt assets
- deducting secured liabilities
- deducting [outstanding debt](#)

Date of value assessment

In all cases the value of the assets is as at the date of application for financial means assessment. If the client or their partner has money set aside for a specific purpose but it is still held by the client or their partner then it is included in the means assessment of assets.

Assets may include but are not limited to:

- cash
- bank account balances (credit balances only)
- bonus bonds
- car(s)
- net equity in property
- licence to occupy
- shares
- pre-paid funerals (any amount over \$10,000 per person)
- life insurance policies

- KiwiSaver accounts (entitled to withdraw/outside the locked-in period)
- Maori land
- personal loans
- pre-paid estate administration fees
- life interest or lease for life
- excess gifting
- deprived assets
- assets covered by a relationship property agreement

Note if the client has paid hospital or rest home fees in advance, the amount the client has paid in advance is considered realisable and is to be included in the means assessment of assets.

For more information see:

- [Clients with a partner](#)
- [Exempt assets](#)
- [KiwiSaver](#)
- [Licence to occupy](#)
- [Life insurance](#)
- [Life interest or lease for life](#)
- [Maori land](#)
- [Outstanding debt](#)
- [Ownership by a trust or company](#)
- [Personal loans](#)
- [Pre - paid estate administration fees](#)

- [Pre-paid funerals](#)
- [Private pensions](#)
- [Property ownership](#)
- [Sale of family home to re-purchase](#)
- [Shares](#)
- [Gifting](#)
- [Deprivation of assets and income](#)
- Residential Care Subsidy [Asset verification](#) procedures
- Residential Care Subsidy Processing standards [Advice of outcome of financial means assessment](#)

Legislation

- Definition of assets [schedule 27 \(part 2\)](#) Social Security Act 1964

KiwiSaver

Money held in a KiwiSaver account is included in the means assessment of assets if it is money:

- that the client is entitled to withdraw from the scheme because they are over 65 years of age **and** they have been a member of the scheme for more than five years

Once the client is entitled to withdraw their KiwiSaver balance, they may choose to reinvest it with the same provider or another investment provider, buy an annuity or receive cash. In each case to which this applies, this investment is no longer a KiwiSaver investment and is included in the means assessment of assets.

Any interest or other income received from KiwiSaver funds outside the locked-in period, for the clients or their partner is included in the means assessment of income.

For more information see:

- Residential Care Subsidy [Asset verification](#) procedures
- Residential Care Subsidy [Property ownership](#) procedures

Legislation

- Definition of assets [schedule 27 \(part 2\)](#) Social Security Act 1964

Property ownership

When the client or their partner (if any) has an interest in a property (house and/or land), their [net equity](#) is included as an asset in the means assessment of assets.

Exception

Clients who have a partner who is not a resident assessed as requiring care, automatically have the \$119,614 (as at 1 July 2014) threshold applied to their means assessment. This threshold allows the net equity in the family home, in which their partner resides, to be exempt.

For previous asset thresholds see: Deskfile [Asset thresholds](#)

For more information see:

- [Election process](#)

Joint tenancy

To calculate [joint tenancy](#) you should assess equal shares in the property for all of the owners (that is 50% each for 2 people, 33.3% each for 3 people), and include the client and their partner's share as an asset in the means assessment of assets.

Note if the property has been registered as a joint family home under the Joint Family Homes Act 1964, treat the property in the same way as a joint tenancy for the purposes of valuation and the means assessment of assets.

Tenancy in common

Both the client and their partner's share of a tenancy in common (as set out in the title) are included as an asset in the means assessment of assets.

Seek advice if you are unable to determine the client's assets or what may, or may not be included in the means assessment of assets.

For more information see:

- [Granny flats](#)

- [Farms](#)
- Residential Care Subsidy [Asset verification](#) procedures
- Residential Care Subsidy [Property ownership](#) procedures

Legislation

- Definition of assets [schedule 27 \(part 2\)](#) Social Security Act 1964

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Granny flats

Granny flats are usually co-sited on one property with a main residential dwelling. Granny flats range from 'outside rooms' to fully self-contained units.

If a client is able to sell the granny flat then it should be included as an asset in the financial means assessment.

Sometimes the client can't sell the granny flat but has a right to occupy it, either by contract or by an arrangement (example, a licence to occupy). In this case, the right to be paid money when that contract or arrangement ends is an asset (taking into account any conditions or restrictions on that right).

If the client does not have any right to sell or recover that money from the granny flat, but has:

- spent money on either purchasing or renovating the granny flat **and**
- the granny flat has added value to the property **or**
- the granny flat is capable of being used to earn an income

then you should consider whether there is any deprivation that should be counted back in to the financial means assessment.

Discuss with your Service Centre Trainer if you are unsure about any contract or arrangement about the granny flat.

For more information see:

- Residential Care Subsidy [Asset verification](#) procedures
- Residential Care Subsidy [Property ownership](#) procedures

Legislation

- Definition of assets [schedule 27 \(part 2\)](#) Social Security Act 1964

Farms

If the client's house is on a farm and the house is the principal residence of the client's partner or dependent child, the farm is not included as an asset in the financial means assessment.

However, if the client has chosen to have the \$218,423 (as at 1 July 2014) threshold applied, the house and farm are not exempt (that is they must be included as an asset in the financial means assessment).

If the client applies for a review of their financial means assessment and the house is no longer the principal residence of their partner or dependent child, or they choose the \$218,423 (as at 1 July 2014) threshold, then the house and farm must be included as an asset in the financial means assessment.

For more information see:

- Residential Care Subsidy [Asset verification](#) procedures
- Residential Care Subsidy [Property ownership](#) procedures

Legislation

- Definition of assets [schedule 27 \(part 2\)](#) Social Security Act 1964

Licence to occupy

Clients who live in flats or houses on hospital or rest home grounds and clients living in retirement villages usually purchase a licence to occupy rather than purchase the premises.

Where a client purchases the licence to occupy, it would normally be refundable and should be included as an asset in the means assessment of assets.

If the licence to occupy is in the client's name, but they claim that the licence was purchased by a family member (and so any money due upon termination of the licence is to be paid to the family member), the licence is not included as an asset in the financial means assessment as long as the client can satisfy you that this what they have arranged.

Note if the client is married, in a civil union or de facto relationship and the partner in the community is living in the licence to occupy flat or house then this may be exempt unless the client has elected the higher \$218,423 (as at 1 July 2014) asset threshold on the application form.

For previous asset thresholds see: Deskfile [Asset thresholds](#)

For more information see:

- Residential Care Subsidy [Asset verification](#) procedures
- Residential Care Subsidy [Property ownership](#) procedures

Legislation

- Definition of assets [schedule 27 \(part 2\)](#) Social Security Act 1964

Pre-paid estate administration fees

Pre-paid estate administration fees is money put aside exclusively to cover any fees associated with the administration of the estate. These fees are not exempt from the financial means assessment of assets and income.

For more information see:

- Residential Care Subsidy [Pre paid estate administration fees](#) procedures

Legislation

- Definition of assets [schedule 27](#) Social Security Act 1964

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Pre-paid funerals

The value of a pre-paid funeral trust fund or account in excess of:

- \$10,000 for a single client
- \$10,000 each for couples where they both have a pre-paid funeral trust fund or account

is included in the means assessment of assets.

Note for couples this is \$10,000 each, not a total of \$20,000 between them.

There may be situations where a client's pre-paid funeral trust fund or account has gained interest. If the client or their partner cannot access the interest, only include the original value of the pre-paid funeral trust fund or account in the means assessment of assets.

It is usually clear whether or not the trust fund or account has been genuinely set aside for funeral expenses.

For more information see:

- Residential Care Subsidy [Pre-paid funerals](#) procedures
- Residential Care Subsidy [Asset verification](#) procedures

Legislation

- Definition of assets [schedule 27](#) Social Security Act 1964
- Income exempt [regulation 11](#) Security Act (Long-term Residential Care) Regulations 2005

Personal loans

When a client or their partner (if any) has made a loan to another party (for example person, business or trust) the principal amount outstanding to the client is an asset and must be included in the means assessment of assets.

Note if the loan is being repaid any interest payments must be included in the financial means assessment of income.

For more information see:

- Residential Care Subsidy [Personal loans](#) procedures
- Residential Care Subsidy [Asset verification](#) procedures

Legislation

- Definition of assets [schedule 27](#) Social Security Act 1964

Life insurance

A life insurance policy can be included in the means assessment of assets if the policy has a cash value (also known as surrender value) that is realisable.

If the life insurance policy is payable only on the client's death, do not include it as an asset because it is not realisable.

For more information see:

- Residential Care Subsidy [Asset verification](#) procedures

Legislation

- Definition of assets [schedule 27](#) Social Security Act 1964

Life interest or lease for life

A life interest or lease for life usually arises from a will or is obtained as a condition of the selling or gifting of an asset, in most cases to a trust.

A client or partner can sell, lease, mortgage or obtain an acknowledgement of debt for the life interest or lease for life, however this rarely occurs as the life interest or lease for life is only available while the client is alive - hence the older the client, the lesser the value.

Life interest or lease for life arising from a will

Generally, a life interest or lease for life from a will is **not** included in the financial means assessment as they did not have the original ownership and control of the life interest or lease for life. The control is usually held in the terms and conditions of the will.

The life interest or lease for life is usually not realisable because when a client inherits a life interest or lease for life the client and partner, if any, (known as the life tenant or life tenants) have full rights of occupation and/or enjoyment of the asset but on the death of the client and their partner:

- the life interest or lease for life ceases **and**
- it cannot be bequeathed or passed on by will of the client or their partner

Life interest or lease for life as a condition of selling or gifting an asset

A life interest or lease for life may be retained as a condition of selling or gifting of an asset. Generally, this occurs when a client sells or gifts their home to a trust or family member.

Client sells asset

When a client sells the asset and retains a life interest or lease for life as a condition of the selling, the client has only changed the type of asset and the value of the asset at the time it was sold is included in the financial means assessment.

When including the value of the asset in the financial means assessment, the assessment should show separately:

- the value of the asset sold less the life interest or lease for life

and

- the value of the life interest or lease for life

Client gifts asset

When a client gifts the asset and retains a life interest or lease for life as a condition of the selling, the client may have deprived themselves of an asset.

When completing the financial means assessment, include in the assessment:

- any value of the asset less the life interest or lease for life deemed to be excess gifting
- and**
- the value of the life interest or lease for life

Note if the life interest or lease or life is not included in the financial means assessment, the income from asset exemption cannot be applied to any income arising from this asset.

For more information see:

- [Client asks for life interest or lease for life to be included](#)
- [Client did not have original ownership of the asset](#)
- [Income from life interest or lease for life](#)
- Residential Care Subsidy [Life interest or lease for life](#) procedures
- Residential Care Subsidy [Asset verification](#) procedures

Legislation

- Definition of assets [schedule 27](#) Social Security Act 1964

Client asks for life interest or lease for life to be included

When an asset is not included in the means assessment of assets, but the income from the asset is included in the means assessment of income, the income from asset exemption cannot be applied.

Generally, life interests or lease for life may be of little commercial value to a trust or family member but are generating a small amount of income. A client may ask that the life interest or lease for life be included in the means assessment of assets, for the income from assets exemption to be applied.

Including the value of the life interest or lease for life would only benefit clients who have no other assets that are generating an income or the income generated is small.

Note very rarely will clients ask for the life interest or lease for life to be included in the financial means assessment and clients should not be forced to realise any life interest or lease for life as a 'realisable' asset.

To include the life interest or lease for life as an asset in the financial means assessment the client will need to provide proof the value of the life interest or lease for life is 'realisable'. This may include (but not limited to):

- another person or entity (such as a trust) would buy the lease for life if they so chose
- acknowledgement deed of debt

You may need to seek advice from a Financial Analyst to determine the value of a life interest or lease for life.

For more information see:

- [Income from life interest or lease for life](#)
- [Has deprivation occurred - maybe](#)
- [Review if there is a mistake](#)
- Residential Care Subsidy [Life interest or lease for life](#) procedures
- Residential Care Subsidy [Asset verification](#) procedures

Legislation

- Definition of assets [schedule 27](#) Social Security Act 1964
- Deprivation of property and income [regulation 9B](#) Social Security (Long-term Residential Care) Regulations 2005

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Maori land

There are situations when a client may have an individual financial interest in Maori freehold land. When individual ownership of Maori land can be identified and realised the value of this should be included in the means assessment of assets.

When the title is in tribal trust and individual ownership cannot be identified, the client's interest is not able to be realised by the client, therefore do not include its value in the means assessment of assets.

Note if the client receives income from their Maori land this may need to be included in the means assessment of income.

If you are still unsure you should seek advice.

For more information see:

- Residential Care Subsidy [Asset verification](#) procedures

Legislation

- Definition of assets [schedule 27](#) Social Security Act 1964

Shares

The current value of any shares held by the client or their partner (if any) must be included in the means assessment of assets.

To assess the value of shares you will need to calculate:

- total number of shares
multiplied by
- share value (buy price) as at the date of financial means assessment.

For more information see:

- Residential Care Subsidy [Shares and investments](#) procedures
- Residential Care Subsidy [Income verification](#) procedures
- Residential Care Subsidy [Asset verification](#) procedures

Legislation

- Definition of assets [schedule 27](#) Social Security Act 1964

Sale of family home to re-purchase

Client intends to purchase a new house

When a client has sold their house and intends to purchase a new home that will be the principal place of residence of the client's partner or dependent child, the proceeds from the sale will be included as an asset in the means assessment of assets.

If the client is not financially eligible for a Residential Care Subsidy, the client may apply for a review of their financial means assessment once their new home has been purchased.

Sale after financial means assessment

If the client's house is sold after the financial means assessment is completed, there is no automatic review of the means assessment of assets. However, the means assessment of assets may be reviewed if:

- the client applies for a review **or**
- the partner's circumstances have changed, for example the partner has died, or becomes a resident assessed as requiring care, or their marital/relationship status has changed

For more information see:

- [Financial means assessment quick reference table](#)
- [Election process](#)
- [Review of financial means assessment](#)

Legislation

- Definition of assets [schedule 27](#) Social Security Act 1964

Ownership by a trust or company

If property or any other assets are owned by a trust, these are not included in the client's means assessment of assets. This is because the client does not own the assets.

Generally when a trust is established and a client transfers an asset into the trust, a Deed of Acknowledgement of Debt is established and gifts are made each year to reduce the debt. The Deed of Forgiveness of Debt shows the value of all outstanding debts owed to the client by the trust.

This outstanding debt must be included as an asset in the means assessment of assets.

Note you may also need to include any excess gifting and consider deprivation.

If you are unable to determine the client's assets or what may be included in the means assessment of assets seek advice.

For more information see:

- [Key words within trusts](#)
- [Interpreting Trusts](#)
- [Gifting](#)
- [Deprivation of assets and income](#)
- Residential Care Subsidy [Trusts](#) procedures

Key words within trusts

Trust

A trust is an obligation accepted by the trustees to hold property, typically given by the settlor, for the benefit of beneficiaries of the trust.

Settlor

The person who sets up the trust. Normally this is the person intending to transfer assets to the trust but sometimes it is another person (such as a lawyer) who is merely setting up the mechanism of a trust to be used by someone else (such as the client).

Trustees

The people who hold the ownership of the trust's assets and look after them for the beneficiaries. Their prime duty is to carry out the terms of the trust and preserve the trust property.

Trustees have the legal ownership of the assets but not the beneficial ownership i.e. they are only holding the property for the benefit of others.

Beneficiaries

The people for whose benefit the assets are held by the trustees. They include the people who will ultimately get the property of the trust and those that may receive the benefit of the trust's assets or income during the continuation of the trust.

Trust deed

This is the document that establishes the trust, which is signed by the settlor and the trustee(s). This document sets out what the trustees' powers are under the trust and for this reason is extremely important.

Testamentary trust

A trust established through a will. This type of trust is only established once a person has died, having made provision for it in their will. There will not be a separate trust deed; the will itself is the document that establishes the trust.

Interpreting Trusts

When you have the required information regarding a trust you will need to establish the following:

1. Do the beneficiaries of the trust include the client or their partner (if any)?

If yes there may be an entitlement to income if any is generated from the trust. Check the financial statements to see if:

- income is being generated
- income is distributed from the trust to the client or their partner (if any) **and**
- any conditions set out in the trust deed around distributing any income.

2. Is there a history of trust income being paid to the client or their partner (if any)?

If yes include any estimated income in the means assessment of income. If the income has stopped you need to establish the reasons for this and consider if the client or their partner has deprived themselves of income.

3. Was any property transferred to the trust by the client or their partner (if any) at a fair value?

The capital valuation at the time of sale should confirm that the transfer to the trust was for a fair value. If the value was less than the capital valuation you will need to consider if the client or their partner has deprived themselves of an asset.

4. Are the values of any investments transferred into the trust confirmed?

Unless the trust purchased the investments for the client or their partner (if any) out of its own assets the value of any investment transferred to the trust should be recorded in a Deed of Acknowledgement of Debt and verification of the value of the investment at time of transfer should be provided. If the Deed of Acknowledgement of Debt is less than the value of the asset you may need to consider if the client or their partner has deprived themselves of an asset. If the trust has purchased the investments from its own assets then the sale price should be recorded in the trust's financial statements.

5. Is there an outstanding debt owed to the client or their partner (if any) by the trust? Is interest payable on the debt?

If so the latest Deed of Forgiveness of Debt should show the value of any outstanding debt balance. The Deed of Acknowledgement of Debt should show any interest payable and repayment details. If there is no interest you need to establish the reasons for this and consider if the client or their partner have deprived themselves of income.

6. Is there a life interest?

Any life interest granted by the trust should be included as an asset of the client. The sale and purchase agreement will show you if there was a life interest retained when the client sold the property to the trust. This will appear in the special terms of agreement section at the end of the sale and purchase agreement. Seek advice from a Financial Analyst as to the current value of the life interest.

Note trusts can be complex and the client's interest may be difficult to determine. If you are unsure seek advice.

For more information see:

- [Ownership by a trust](#)
- [Key words within trusts](#)
- [Gifting](#)
- [Deprivation of assets and income](#)
- Residential Care Subsidy [Trusts](#) procedures

Exempt assets

Assets exempt from the means assessment of assets are as follows:

- any **interest in a residential dwelling** that is the principal place of residence of the client's partner or dependent child (unless the client has a partner who is not a resident assessed as requiring care and the client has elected the higher asset threshold through the [election process](#)).
- any **interest in one car** or similar vehicle that is for the use of the client's partner or dependent child (unless the client has a partner who is not a resident assessed as requiring care and the client has elected the higher asset threshold through the [election process](#)).
- any **compensatory or ex gratia payments** from any country to a client or their partner (if any) because they were a prisoner of war, civilian internee or a victim of persecution of any country during the **Second World War** or were a dependent child of someone that was
- **ex gratia payments** paid to a client or their partner (if any) who has suffered a personal injury that is or was caused by a **Hepatitis C** infection contracted through the New Zealand blood supply. This exemption applies only in the first 12 months after the payment is made
- **ex gratia payments** made by the New Zealand Government to **Viet Nam Veterans**, their partners (including former partners) or their natural children and their children's immediate family
- **payments** made by the **Viet Nam Veterans and Their Families Trust** to clients and their families. This exemption applies only in the first 12 months after the payment is made
- **payments** made by the **EVSA (Neville Wallace Memorial) Children's and Grandchildren's Trust** to clients and their families. This exemption applies only in the first 12 months after the payment is made.
- **ex gratia payments** made to former patients of the **Lake Alice Psychiatric Hospital**. This exemption applies only in the first 12 months after the payment is made
- **any other ex gratia or compensation payments** made after 3 November 2008 that are in recognition of [harm](#) experienced by the client, or in settlement of a claim of harm. This exemption applies only in the first 12 months after the payment is made
- **pre-paid funeral trust funds** or accounts for the client and their partner up to

the value of \$10,000 each

- **payments to victims of crime and their families** administered by Victim Support
- **payments made by the Canterbury Earthquake Commission (Red Cross)** are:
 - exempt as an asset for a period of 24 months from the date the payment is made, if the client intends to use the payment to repair or rebuild the home, or purchase a further home **or**
 - exempt as an asset for a period of 12 months from the date the payment is received in all other cases
- **payments from the Earthquake Commission and insurance companies** for rebuilding or repairing the damage to homes caused by the Canterbury Earthquake 2010 (including aftershocks) **or** the costs of renting temporary accommodation because people can no longer live in their home due to damage from the Canterbury Earthquake 2010 (including aftershocks) are:
 - exempt as an asset for a period of 24 months from the date the payment is made, if the client intends to use the payment to repair or rebuild the home, or purchase a further home **or**
 - exempt as an asset for a period of 12 months from the date the payment is received in all other cases
- **payments or part payments from the Crown for the purchase of property in the Canterbury red zone** that are made on or after 23 June 2011 are:
 - exempt for a period of 24 months from the date of full settlement for their home and land where the client intends to use the payment to repair or rebuild the home, or purchase another home
- **payments made under the Sleepover Wages (Settlement) Act 2011** in recognition of a person in the health and disability sector who has been required to sleep overnight at their work place while on duty between 1 June 2004 and 30 June 2011. This exemption applies only in the first 12 months after the payment is made.
- **funds held in KiwiSaver and other retirement schemes** accounts (unless the person is able to access these, when the funds are no longer locked in)
- an **ACC lump sum** payment or a lump sum payment of an **Independence Allowance** made to a client. This exemption applies only in the first 12 months after the payment is made.
- **personal belongings** such as clothing and jewellery, personal collectables, or family treasure/taonga such as art, books, stamps, antiques

- **household appliances and furniture and effects**

Note any income derived from exempt assets is also not included in the means assessment as to income.

For more information see:

- [Ex gratia and compensation payments](#)
- [Gifting](#)
- [KiwiSaver](#)
- [Pre-paid funerals](#)
- [Election process](#)
- Types of income [Payments to victims of crime and their families](#)
- Types of income [Payments from Canterbury Earthquake Commission \(Red Cross\)](#)
- Types of income [Payments from Earthquake Commission and insurance companies \(Canterbury Earthquake 2010 and 2011 aftershock\)](#)
- Types of income [Sleepover wages settlement payments](#)

Legislation

- Means assessment as to assets [section 146](#) Social Security Act 1964
- Definition of assets [schedule 27](#) Social Security Act 1964
- Assets exempt from means assessment [regulation 10](#) Social Security (Long-term Residential Care) Regulations 2005
- [Social Security \(Income and Cash Asset Exemptions\) Regulations 2011](#)

Ex gratia and compensation payments

An ex gratia payment is made to a person without legal obligation or acceptance of liability by the Crown in recognition of harm experienced by the client.

A compensation payment is made in recognition that a person has experienced harm, or to settle a claim of harm.

The compensation payments can be made:

- as the result of a Court Order (otherwise known as damages) or award by a tribunal such as the Human Rights Tribunal
- to settle a claim that has been formally filed against the Crown **or**
- to settle a claim of harm where a claim has not been filed in Court

Cash asset and income exemptions

From 3 November 2008, ex gratia and compensation payments made by the Crown must be exempt from cash asset and income testing when the payment made to the client is in:

- recognition of harm experienced by the client **or**
- settlement of a claim of harm

These ex gratia and compensation payments are not assessed as:

- cash assets for 12 months from the date of payment **or**
- income for 12 months from the date of payment (this includes any additional income earned from the ex gratia or compensation payments)

Exceptions

Ex gratia and compensation payments are exempt permanently from the means assessment of assets if they are made:

- by any country to a client or their partner (if any) because they were a prisoner of war, civilian internee or a victim of persecution of any country during the Second World War or were a dependent child of someone that was

- made by Veterans' Affairs New Zealand to Vietnam veterans or their partner (including former partners) or their natural children and their children's immediate family

Note payments made from the Viet Nam Veterans and Their Families Trust and the EVSA (Neville Wallace Memorial) Children's and Grandchildren's Trust are only exempt for 12 months from the date of payment.

Payments that cannot be exempt

Payments cannot be exempt from the income and cash asset tests when the payment is being made:

- to recognise economic loss, a reduction in value of property or financial assets (sometimes referred to as pecuniary damages)
- as a result of an employment relationship. For more information see: [compensation or damages for employment](#)
- in respect of a contract to provide goods and services **or**
- to working mothers or adoptive parents on return to work from a period of maternity or extended leave

Further guidelines

There are some situations where further guidelines exist. For more information see:

- Types of income [Ex gratia and compensation payments](#)
- Types of income [Process for exempting ex gratia and compensation payments](#)
- Types of income [Ex gratia payments from Veterans' Affairs New Zealand](#)
- Types of income [Viet Nam Veterans and Their Families Trust payments](#)
- Types of income [EVSA \(Neville Wallace Memorial\) Children's and Grandchildren's Trust payments](#)
- Types of income [Hepatitis C ex gratia payments](#)
- Types of income [Lake Alice Psychiatric Hospital compensation payments](#)

- Types of income [Payments to victims of crime and their families](#)
- Types of income [Payments from the Crown for the purchase of property in the Canterbury red zone](#)
- Types of income [Sleepover wages settlement payments](#)

Legislation

- Means assessment as to assets [section 146](#) Social Security Act 1964
- Definition of assets [schedule 27](#) Social Security Act 1964
- [regulation 10](#) Social Security (Long-term Residential Care) Regulations 2005
- [Social Security \(Long-term Residential Care\) Regulations 2005](#)
- Social Security ([Income and Cash Assets Exemptions](#)) Regulations 2011
- Social Security ([Temporary Additional Support](#)) Regulations 2005

Gifting

Gifting is investments that the client or their partner gives away. This can be by:

- an established gifting programme with an Acknowledgement of Debt and Inland Revenue Gifting Statements **or**
- investments given direct to any other person or entity

Gifts of investments made in the five years before the client applies for Residential Care Subsidy must be included in the means assessment of assets. However, clients can gift up to \$6,000 per year without it affecting their financial means assessment. This gifting is 'allowable gifting' and is not included in the means assessment of assets.

Note allowable gifting is a total of \$6,000 per year per application. For couples this is **not** \$6,000 per year **each** but is a total of \$6,000 for both if only one application is received. If both have made an application for a financial means assessment both are allowed \$6,000 per year each.

A client may also gift in recognition of care provided they meet the criteria. This is a separate gifting assessment.

For more information see:

- [Gifting assessments](#)
- [Gifts in excess of the allowable limit](#)
- [Excess gifting outside 5 years](#)
- [Gift in recognition of care](#)
- Residential Care Subsidy [Gifting verification](#) procedures

Legislation

- Definition of assets [schedule 27](#) Social Security Act 1964
- Gifting period [regulation 8](#) Social Security (Long-term Residential Care) Regulations 2005
- Allowable gifts [regulation 9](#) Social Security (Long-term Residential Care)

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Gifting assessments

A client may gift up to \$6,000 each year for five years prior to the date of application for Residential Care Subsidy.

The \$6,000 per year allowable gifting can only be applied from the date of the client's first gift within the five year gifting period.

From 1 July 2011 the gifting amount increased from \$5,500 to \$6,000. This means that if an application is received from 1 July 2011 the client can be allowed to gift up to \$6,000 in the 2011 gifting year. The previous four gifting years also have the gifting limit up to \$6,000.

The five year period is based on the five years before the date of financial means assessment (not the financial year or calendar year).

Note if the application for financial assistance means assessment was received before 1 July 2011, the client can be allowed to gift \$5,500 for each gifting year.

A client's assets are assessed on the basis of what they have actually done, not what they intended to do or intend to do in the future.

Example

The date of financial means assessment is 12 August 2014.

Financial means assessment date: 12 August 2014				
From Year:	To Year:	Gifted	Allowed Gifts	Excess Gifts
12-August-2009	11-August-2010	\$	\$6,000	\$
12-August-2010	11-August-2011	\$	\$6,000	\$
12-August-2011	11-August-2012	\$	\$6,000	\$
12-August-2012	11-August-2013	\$	\$6,000	\$
12-August-2013	11-August-2014	\$	\$6,000	\$
		\$	\$30,000	\$
				= Asset

Details of gifting done during the period 12 August 2009 to 11 August 2014 would be required for the financial means assessment.

When a client has gifted more than the allowed \$6,000 per year this is considered excess gifting.

Example-Gifting limit for application received before 1 July 2011

The date of financial means assessment is 12 February 2011.

Financial means assessment date: 12 February 2011				
From Year:	To Year:	Gifted	Allowed Gifts	Excess Gifts
12-Feb-2006	11-Feb-2007	\$	\$5,500	\$
12-Feb-2007	11-Feb-2008	\$	\$5,500	\$
12-Feb-2008	11-Feb-2009	\$	\$5,500	\$
12-Feb-2009	11-Feb-2010	\$	\$5,500	\$
12-Feb-2010	11-Feb-2011	\$	\$5,500	\$
		\$	\$27,500	\$
				= Asset

Note there are different assessments for gifting done in recognition of care **and** outside the five year period.

For more information see:

- [Gifts in excess of the allowable limit](#)
- [Gifting examples](#)
- [Gifting in recognition of care](#)
- [Excess gifting outside the 5 years](#)
- Residential Care Subsidy [Gifting verification](#) procedures

Legislation

- Definition of assets [schedule 27 \(part 2\)](#) Social Security Act 1964
- Gifting period [regulation 8](#) Social Security (Long-term Residential Care) Regulations 2005
- Allowable gifts [regulation 9](#) Social Security (Long-term Residential Care) Regulations 2005

Gifts in excess of the allowable limit

When a client gifts in excess of \$6,000 in any year the excess may be offset from the following years within the same five year period where the client has gifted less than \$6,000.

An assessment table has been provided:

Financial means assessment date: 10 November 2014				
From Year:	To Year:	Gifted	Allowed Gifts	Excess Gifts
10-Nov-2009	09-Nov-2010	Nil	Nil	Nil
10-Nov-2010	09-Nov-2011	Nil	Nil	Nil
10-Nov-2011	09-Nov-2012	\$7,000	\$6,000	\$1,000
10-Nov-2012	09-Nov-2013	\$5,000	\$6,000	-\$1,000
10-Nov-2013	09-Nov-2014	Nil	\$6,000	Nil
	Total	\$12,000	\$18,000	Nil

Note the \$6,000 per year allowable gifting can only be applied from when the first gift was made by the client.

For more information see:

- [Gifting examples](#)
- [Gifting assessments](#)
- [Excess gifting outside the 5 years](#)
- [Gifting in recognition of care](#)
- Residential Care Subsidy [Gifting verification](#) procedures

Gifting examples

Example 1 - Single

A client's application for Residential Care Subsidy is received on 2 September 2014. The gifting period for the five years is from 2 September 2009 to 1 September 2014.

The client had gifted \$15,000 in August 2010 and \$30,000 in July 2012. Gifting of \$6,000 for each year would be allowed in 2010, 2011, 2012, 2013 and 2014.

Calculation:

Financial means assessment date: 2 September 2014				
From Year:	To Year:	Gifted	Allowed Gifts	Excess Gifts
02-Sep-2009	01-Sep-2010	\$15,000	\$6,000	\$9,000
02-Sep-2010	01-Sep-2011	Nil	\$6,000	-\$6,000
02-Sep-2011	01-Sep-2012	\$30,000	\$6,000	\$24,000
02-Sep-2012	01-Sep-2013	Nil	\$6,000	-\$6,000
02-Sep-2013	01-Sep-2014	Nil	\$6,000	-\$6,000
	Total	\$45,000	\$30,000	\$15,000

Excess gifting of \$15,000 is to be included in the means assessment of assets.

Example 2 - Single

A client's application for Residential Care Subsidy is received on 2 September 2014. The gifting period for the five years is from 2 September 2009 to 1 September 2014.

The client has gifted \$35,000 in July 2012. Gifting of \$6,000 for each year would be allowed for 2012, 2013 and 2014.

Calculation:

Financial means assessment date: 2 September 2014				
From Year:	To Year:	Gifted	Allowed Gifts	Excess Gifts
02-Sep-2009	01-Sep-2010	Nil	Nil	Nil
02-Sep-2010	01-Sep-2011	Nil	Nil	Nil
02-Sep-2011	01-Sep-2012	\$35,000	\$6,000	\$29,000

02-Sep-2012	01-Sep-2013	Nil	\$6,000	-\$6,000
02-Sep-2013	01-Sep-2014	Nil	\$6,000	-\$6,000
	Total	\$35,000	\$18,000	\$17,000

Excess gifting of \$17,000 is to be included in the means assessment of assets.

Note the first gift was made in July 2012 therefore there is no allowable gifting for the years prior to this date.

Example 3 - Couple one in care

A client's application for Residential Care Subsidy is received on 2 September 2014. The gifting period for the five years is from 2 September 2009 to 1 September 2014.

The client had gifted \$3,000 in April 2012 and the partner gifted \$30,000 in April 2013. Gifting of \$3,000 would be allowed in 2012 and \$6,000 would be allowed in 2013 and 2014.

Calculation:

Financial means assessment date: 2 September 2014				
From Year:	To Year:	Gifted	Allowed Gifts	Excess Gifts
02-Sep-2009	01-Sep-2010	Nil	Nil	Nil
02-Sep-2010	01-Sep-2011	Nil	Nil	Nil
02-Sep-2011	01-Sep-2012	\$3,000	\$3,000	Nil
02-Sep-2012	01-Sep-2013	\$30,000	\$6,000	\$24,000
02-Sep-2013	01-Sep-2014	Nil	\$6,000	-\$6,000
	Total	\$33,000	\$15,000	\$18,000

Excess gifting of \$18,000 is to be included in the means assessment of assets.

Note the first gift was made in April 2012 therefore there is no allowable gifting for the years prior to this date.

Example 4 - Couple both in care

Mr and Mrs Smith have both entered care and two applications for Residential Care Subsidy are received on 2 September 2014. The gifting period for the five years is from 2 September 2009 to 1 September 2014.

Mr and Mrs Smith have each gifted \$6,500 in April 2010, \$5,500 in April 2011, \$4,000 in May 2012 and \$10,500 in May 2013. Gifting of \$6,000 each for each year would be allowed for 2010, 2011, 2012, 2013 and 2014.

Calculation:

Financial means assessment date: 2 September 2014						
		Mr Smith	Mrs Smith			
From Year:	To Year:	Gifted	Gifted	Total Gifts	Total Allowed Gifts	Excess Gifts
02-Sep-2009	01-Sep-2010	\$6,500	\$6,500	\$13,000	\$12,000	\$1,000
02-Sep-2010	01-Sep-2011	\$5,500	\$5,500	\$11,000	\$12,000	-\$1,000
02-Sep-2011	01-Sep-2012	\$4,000	\$4,000	\$8,000	\$8,000	Nil
02-Sep-2012	01-Sep-2013	\$10,500	\$10,500	\$21,000	\$12,000	\$9,000
02-Sep-2013	01-Sep-2014	Nil	Nil	Nil	\$9,000	-\$9,000
		Total		\$53,000	\$53,000	Nil

There is no excess gifting in this example.

Example 5 - Single client trust example

The client owned a family home in 2008 valued at \$200,000.

The client sold the home to their trust on 1 April 2008 for \$200,000, executed an Acknowledgement of Debt and commenced a gifting programme. Gifts made (forgiveness of debt) at \$27,000 per year from 1 April 2008.

Deed of Acknowledgement of Debt	\$200,000
Less total gifting made April 2008 to April 2014 (7 X \$27,000)	\$189,000
Balance of debt = asset	\$11,000

The client's application for Residential Care Subsidy is received on 12 September 2014. The gifting period for the five years before application is from 12 September 2009 to 11 September 2014.

Calculation:

Financial means assessment date: 12 September 2014				
From Year:	To Year:	Gifted	Allowed Gifts	Excess Gifts

12-Sep-2009	11-Sep-2010	\$27,000	\$6,000	\$21,000
12-Sep-2010	11-Sep-2011	\$27,000	\$6,000	\$21,000
12-Sep-2011	11-Sep-2012	\$27,000	\$6,000	\$21,000
12-Sep-2012	11-Sep-2013	\$27,000	\$6,000	\$21,000
12-Sep-2013	11-Sep-2014	\$27,000	\$6,000	\$21,000
	Total	\$135,000	\$30,000	\$105,000

The balance of debt of \$11,000 and excess gifting of \$105,000 is included in the means assessment of assets.

Example 6 - Married client trust example

The client and partner owned a family home in 2004 valued at \$270,000.

The client and partner sold the home to their trust on 18 March 2005 for \$270,000, executed an Acknowledgement of Debt and commenced a gifting programme. Gifts made (forgiveness of debt) at \$27,000 per year from 18 March 2005.

Even though they have completed gifting each year the dates varied and in 2009 the gifting of \$27,000 each was made on 18 May 2009. The next gifting was made on 21 September 2009.

The client's application for Residential Care Subsidy is received on 4 September 2014. The gifting period for the five years is from 4 September 2009 to 3 September 2014.

Calculation:

Financial means assessment date: 12 September 2014				
From Year:	To Year:	Gifted	Allowed Gifts	Excess Gifts
04-Sep-2009	03-Sep-2010	Nil	Nil	Nil
04-Sep-2010	03-Sep-2011	\$54,000	\$6,000	\$48,000
04-Sep-2011	03-Sep-2012	\$54,000	\$6,000	\$48,000
04-Sep-2012	03-Sep-2013	\$54,000	\$6,000	\$48,000
04-Sep-2013	03-Sep-2014	\$54,000	\$6,000	\$48,000
	Total	\$216,000	\$24,000	\$192,000

Excess gifting of \$192,000 is included in the means assessment of assets.

Note it might appear from the calculation that there has been no gifting done in 2009, but as it was done on 18 May 2009 it is outside the 5 year period and this is calculated

differently.

Therefore the maximum gifting allowed in the 5 year period is \$24,000.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Gifting in recognition of care

Gifts may be made by the client or partner (if any) to another person who has provided a high level of care to the client. The gift must have been made within 12 months of the client's date of application for a financial means assessment.

As long as the client has received at least one year of continuous high level care, they can gift a maximum of \$6,000 for each year of high level care received, up to a maximum of \$30,000 (minus any allowable gifting that has already taken place).

Note the gifting limit increased from 1 July 2011 to \$6,000. This includes the five years prior to the 1 July 2011. If the application for financial means assessment was received before 1 July 2011, the maximum gift is \$5,500 for each year of high level of care received.

The gift or gifts in recognition of care can be made if the client has:

- received care for a continuous period of at least 12 months during the gifting period
 - lived in the same household as the person providing the care
 - gifted to the person who has provided the care
 - had the care provided to them by a person who is not their partner or dependent child
 - received a high level of care in the form of necessary assistance around the home, for example, personal care such as assistance with bathing and toileting, domestic assistance
 - not received any Ministry of Health funded home-based disability support services while living in the home including Home Support (this includes household management, domestic assistance or personal assistance) meals on wheels or other Ministry of Health home-based assistance
- and**
- been able to remain in their home because crucial care was provided which delayed the need to access Ministry of Health funded residential care

Note clients receiving Carer Support (formally Aid to Families, Respite Care, Alternative Care or 90-days relief) can still qualify for the gifting in recognition of care.

For more information see:

- [Example - gift in recognition of care](#)
- Residential Care Subsidy [Recognition of care](#) procedures
- Residential Care Subsidy [Gifting verification](#) procedures

Legislation

- Gift in recognition of care [regulation 9A](#) Social Security (Long-Term Residential Care) Regulations 2005

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Example - gift in recognition of care

Example 1

A client who meets all the criteria for gifting in recognition of care has applied for a Residential Care Subsidy on 2 September 2014. She has received care for the past three years from her niece and made a gift of \$18,000 to her in recognition of this care on the 2 August 2014 (within the 12 months before the financial means assessment).

Allowable gifting in recognition of care is three years x \$6,000 = \$18,000.

The client also gifted \$12,000 two years ago on 22 September 2012 to her son.

Because total gifting does not exceed \$30,000, all gifting is allowable.

Example 2

A client who meets all the criteria for gifting in recognition of care has received care for three years. The client gifted \$15,000 in recognition of care two years before the date of financial means assessment of 2 September 2014.

No gifting in recognition of care can be considered because the gift was made outside the 12 months before the date of the financial means assessment.

However \$12,000 is able to be exempt from the means assessment of assets under allowable gifting provisions. \$3,000 is to be included in the means assessment of assets as excess gifting.

Example 3

A client who meets all the criteria for gifting in recognition of care has applied for a Residential Care Subsidy. The client received care for one year and made a gift of \$30,000 in recognition of that care. The gift was made in the year before the financial means assessment.

Only \$6,000 is able to be exempt from the means assessment of assets as an allowable gift in recognition of care because the client has received a high level care for only one year.

Calculation:

\$30,000 - \$6,000 = **\$24,000** is to be included in the financial means assessment of assets as excess gifting.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Excess gifting outside the 5 years

Gifts made outside the 5 year period that are more than \$27,000 per year, is considered excess gifting.

When a client who has been needs assessed and has applied for a financial means assessment, and they or their partner (if they have one), has gifted in excess of \$27,000 per year outside the 5 year gifting period this is considered deprivation and depending on the circumstances, may be counted back in to the financial means assessment.

To determine whether the excess gifting outside the 5 years should be counted back in, the following information needs to be considered:

- the value of the gifting and whether it was over \$27,000 per year
- the period over which the gifting occurred - when it started and the frequency
- the total value of the client's assets
- the nature of the asset gifted
- to whom the gift was made, and the relationship of the recipient to the client and
- whether the gifting was made in a lump sum or by periodical payments

For more information see:

- [Example - excess gifting outside the 5 years](#)
- [Gifting](#)
- [Gifting examples](#)
- [Deprivation of assets and income](#)

Example - excess gifting outside the 5 years

Example - married, civil union or de facto couple and one in care

The clients own a family home in 2008 valued at \$350,000.

The clients sell the home to a trust on 1 April 2008 for \$350,000, execute an Acknowledgement of Debt and commence a gifting plan. Gifts made (forgiveness of debt) at \$27,000 per year each from 1 April 2008. The final gift was made on 1 April 2014.

Date of gift	Each partner
01/04/2008	\$27,000 each
01/04/2009	\$27,000 each
01/04/2010	\$27,000 each
01/04/2011	\$27,000 each
01/04/2012	\$27,000 each
01/04/2013	\$27,000 each
01/04/2014	\$13,000 each
Total Gifting	\$350,000

The client's application for Residential Care Subsidy is received on 12 September 2014 as one partner has entered care. The gifting period for the 5 years before application is from 12 September 2009 to 11 September 2014.

The assessment of the gifting is as follows:

	Client	Partner
Deed of Acknowledgement of Debt	\$175,000	\$175,000
Less gifting made in April 2009 to April 2014	\$175,000	\$175,000
Balance of debt still to be gifted	Nil	Nil
Gifting outside 5 years	\$54,000	\$54,000
Less allowable gifting outside 5 years	<u>\$54,000</u>	<u>Nil</u>
Excess gifting outside the 5 years to be considered	\$Nil	\$54,000
Gifting last 5 years each: (\$27,000 x 4) + (\$13,000 x 1)	\$121,000	\$121,000
Less allowable gifting	<u>\$30,000</u>	<u>Nil</u>
Excess gifting inside the 5 years to be included	\$91,000	\$121,000
Excess gifting inside the 5 years to be included**	\$91,000	\$121,000

Excess gifting outside the 5 years to be considered	Nil	\$54,000
------------------------------------------------------------	------------	-----------------

**The excess gifting of \$91,000 and \$121,000 (which totals \$212,000) is included in the financial means assessment.

Gifting prior to the 5 year period of \$54,000 is considered extraordinary gifting because it is in excess of \$27,000. Depending upon the circumstances this excess gifting may be counted back into the financial means assessment.

For more information see:

- [Deprivation of assets and income](#)

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Outstanding debt

Outstanding debts include any other genuine liabilities owed by the client or the client's partner.

When completing the means assessment of assets you will need to determine the balance of any current outstanding debts the client (and their partner if they have one) has and deduct these from the value of their assets.

Note

Debt must be in the name of the client and/or the client's partner. The debt can be secured or unsecured.

In all cases the value of the outstanding debt is as at the date of the financial means assessment.

Outstanding debts may include but are not limited to:

- rates
- insurances
- household expenses such as phone, power, Sky TV, newspaper
- credit card balances, hire purchases, personal loans

If a debt is incurred to purchase an exempt residential dwelling (whether secured or unsecured) it can only be deducted from the value of that exempt dwelling. Therefore the debt does not result in a reduction to the means assessment.

For example, a married couple transferred their home to a family trust. Later, the trust transferred ownership of the home back to the clients, and the home became an exempt asset. However, the home had increased in value while it was owned by the trust. As a result, there is now an outstanding debt owed by the clients to the trust to pay for the increase in value. As the home is an exempt asset, the debt owed to the trust is only deducted from the value of the exempt home, and therefore does not affect the clients' means assessment.

For more information see:

- [Deprivation of assets and income](#)
- Residential Care Subsidy [Asset verification](#) procedures

Legislation

- Definition of assets [schedule 27 \(part 2\)](#) Social Security Act 1964

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Date of financial eligibility

Senior Services - residential care:

- determines financial eligibility for people who are or will be receiving contracted care from a provider
- and**
- advises the Ministry of Health of the date the client is financially eligible for Residential Care Subsidy

The Ministry of Health's liability to pay the cost of contracted care for a person arises from the date of financial eligibility.

The date of financial eligibility for a client aged 65 years or over is:

- the date the client entered long term residential care (if within 90 days of date application was received)
- the date the client's assets are equal to or below the relevant asset threshold (if within 90 days of date application was received) **or**
- the date 90 days prior to the date of application

whichever is the later.

Clients aged between 50 and 64 years, single with no dependent children, are deemed to have assets equal to or below the threshold therefore the date of financial eligibility is:

- 1 July 2005
- the date of entry into care **or**
- the date they were needs assessed as requiring long-term residential care in a hospital or rest home i.e. date of entry to service

whichever is the later.

Note a client is obliged to pay the full cost of their contracted care until the Ministry of Health starts paying the Residential Care Subsidy.

For more information see:

- [Financial means assessment quick reference table](#)
- [Eligible before date of financial means assessment](#)
- [Financial means assessment](#)
- [Means assessment of assets](#)
- [Means assessment of income](#)
- [Asset thresholds](#)
- Residential Care Subsidy [Asset verification](#) procedures
- Residential Care Subsidy [Income verification](#) procedures

Legislation

- Date of funder's liability [section 141](#) Social Security Act 1964

Eligible before date of financial means assessment

Generally, the means assessment of assets is determined as at the date the client has applied for Residential Care Subsidy.

However, a client's assets may be equal to or less than the asset threshold prior to the date the Residential Care Subsidy application was received.

If the assets are over the asset limit on the date the client entered the rest home the case manager will need to identify the date the assets went under the asset limit.

In these situations, the financial means assessment can be determined anytime within 90 days prior to the application date for a financial means assessment. The date from which the client's assets are equal to or below the threshold within the 90 days is the date they are financially eligible and the date the Ministry of Health's liability to pay Residential Care Subsidy begins.

For more information see:

- [Financial means assessment quick reference table](#)
- [Financial means assessment](#)
- [Means assessment of assets](#)
- [Means assessment of income](#)
- [Asset thresholds](#)
- Residential Care Subsidy [Asset verification](#) procedures
- Residential Care Subsidy [Income verification](#) procedures

Legislation

- Date of funder's liability [section 141](#) Social Security Act 1964
- Funder's liability to pay [section 140](#) Social Security Act 1964

Client not financially eligible for Residential Care Subsidy

If a client is not financially eligible for Residential Care Subsidy, they can continue to receive their New Zealand Superannuation or any other benefit/pension. They must make other arrangements to pay for their care from their own means.

Note clients not eligible for Residential Care Subsidy may apply for a Residential Care Loan.

For more information see:

- [Residential Care Loan](#)
- [Review of financial means assessment](#)
- Residential Care Subsidy Processing standards [Advice of outcome of financial means assessment](#)

Legislation

- Obligation to pay for care [section 139](#) Social Security Act 1964
- Funder's liability to pay [section 140](#) Social Security Act 1964

Means assessment of income

The means assessment of income determines the contribution a client is required to make towards the cost of their contracted care. A client's estimated annual income is used in this assessment.

Clients aged 65 years or over should only have the means assessment of income completed after the means assessment of assets has been completed and their assets are equal to or below the asset threshold.

Clients who are aged 50 to 64 years, single with no dependent children, are required to have a means assessment of income to assess the contribution they are required to pay towards the cost of their contracted care.

Note a means assessment of income is not completed for clients who are aged 65 years or over and not financially eligible.

If the means assessment of income determines the private contribution is less than \$5.00 per week the client is not required to make a private contribution.

For more information see:

- [Clients with a partner](#)
- [Income](#)
- [Income excluded](#)
- [Deprivation of assets and income](#)
- [Maximum contribution](#)
- Residential Care Subsidy [Income verification](#) procedures

Legislation

- Definition of income [schedule 27](#) Social Security Act 1964
- Means assessment of income [section 147](#) Social Security Act 1964

Income

The estimated net annual income is assessed as at the date of financial means assessment. The annual income is used to determine the weekly contribution, up to the maximum contribution, that the client must pay towards the cost of their contracted care.

Always use net income. If the income is non-taxable use the amount the client receives, do not deduct an amount for tax.

Note although some forms of income are not taxed they are still considered to be income. Whether income is taxed or not, is irrelevant. An example is Government Superannuation, which is paid as a 'free of tax' payment but is still considered as income.

The means assessment of income includes (but is not limited to):

- any income from assets of the client and partner (less the income from assets exemption)
- any benefit received by the client
- 50% of any private pension received by the client or their partner (if any) under a superannuation scheme constituted in New Zealand or overseas
- 50% of any payments received by the client or their partner (if any) under a life insurance policy issued either in New Zealand or overseas
- any income from a family trust or estate
- any interest or other income derived from a KiwiSaver account outside the locked-in period for the client or their partner

For more information see:

- [Clients with a partner](#)
- [Income from assets](#)
- [Income excluded](#)
- [Income from life interest or lease for life](#)
- [Income from royalties](#)

- [Means assessment of income](#)
- [Income verification](#) procedures

Legislation

- Means assessment of income [section 147](#) Social Security Act 1964
- Income (definition) [section 3](#) Social Security Act 1964
- Residents assessed as requiring care aged 50 to 64 [section 143](#) Social Security Act 1964

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Private pensions

For the purpose of a client's means assessment of income:

- include 50% of any amount received by the client or their partner (if any) by way of a private pension

Overseas pensions

When a client is receiving an overseas pension that is similar in purpose to a New Zealand benefit or pension it will be directly deducted from the New Zealand benefit or pension.

The client will be required to contribute the rate of New Zealand benefit or pension and the overseas pension, less the personal allowance amount, towards the cost of their care. This rate will be equivalent to the standard benefit or pension contribution.

If the client does not receive a New Zealand benefit or pension the contribution will be the overseas pension less the personal allowance.

If the client is receiving an overseas pension that is a private pension, and is not directly deducted from the New Zealand benefit or pension, it will be included in the means assessment of income.

For more information see:

- [Income](#)
- [Payments from overseas](#)
- [Reciprocal Agreements](#)

Legislation

- Means assessment [schedule 27](#) Social Security Act 1964
- income (definition) [section 3](#) Social Security Act 1964

Income from assets

Income from assets may include (but is not limited to) income from:

- a business
- Maori land
- capital growth funds
- rental properties
- investments
- shares
- personal loans
- royalties

Income from assets exemption

An amount of income from assets may be exempt from the means assessment of income.

This income exemption applies to any income the client and partner (if any) receive from their assets. The amount of income that is exempt depends on the client's circumstances.

The income from assets exemption (as at 1 July 2014) is as follows:

Client is:	Income Exemption (per annum after tax):
Single	\$963.00
Couple - both in care	\$1,925
Couple - one in care, one living in the community	\$2,887

Note this exemption does not apply to income that is **not** derived from the client's and partner's (if any) assets.

For more information see:

- [Income from rent](#)
- [Income from royalties](#)
- [Capital Growth Funds](#)
- [Income](#)
- [Income excluded](#)
- Residential Care Subsidy [Income verification](#) procedures
- Residential Care Subsidy [Interest rates](#) procedures
- Residential Care Subsidy [Income from rent](#) procedures
- Residential Care Subsidy [Income from royalties](#) procedures
- Residential Care Subsidy [Income from shares and investments](#) procedures

Legislation

- Regulations [section 155](#) Social Security Act 1964
- Definition of income [schedule 27 \(part 3\)](#) Social Security Act 1964

Income from rent

Rental income is assessed at the net rate by:

- deducting all allowable outgoings from the rental income

Outgoings can include:

- local authority rates (including water rates charged by a local authority, regardless of how the rates are calculated). If the applicant receives a rebate on any of these items, this must always be deducted.
- building insurance
- contents insurance (only if rental property is furnished)
- mortgage interest
- agents' fees
- essential repairs and maintenance
- body corporate levies

For more information see:

- Residential Care Subsidy [Income from rent](#) procedures

Legislation

- Definition of income [schedule 27](#) Social Security Act 1964

Income from royalties

Royalties are generally paid for the use of intellectual property or physical assets.

Assessment of income from royalties is based on the amounts received in the last 52 weeks, and the amount received (less tax) is to be included in the means assessment of income.

While the client may own the intellectual property or physical assets (or at least the contract that allows for the royalties), royalties are not generally assignable. Royalties are an asset which earns income, although they are not generally capable of being realised. This means that:

- they are not included (or capitalised) as an asset in the means assessment of assets **and**
- the income-from-assets exemption applies for any income from royalties that the client or their partner receives

Royalties received by the client's partner in the community are included in the means assessment of income. The personal earnings exemption does not apply as the 'effort' was made previously, and there is no further 'effort' being made.

For more information see:

- Residential Care Subsidy [Income from royalties](#) procedures

Legislation

- Definition of income [schedule 27](#) Social Security Act 1964

Capital Growth Funds

Capital growth funds may have two income streams - interest and capital growth. The amount of interest a client or their partner (if any) receives from the fund is to be included in the means assessment of income. The capital growth of the fund is not included.

If you are unable to determine what is interest and what is capital growth do not include any income in the means assessment of income.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Income from life interest or lease for life

Generally, all income which arises from the life interest or lease for life is included in the means assessment as to income.

However, if the life interest or lease for life is not a realisable asset it is not included in the means assessment of assets and the income from assets exemption cannot be applied.

To benefit from the income from assets exemption, some clients may ask for the life interest or lease for life to be included in the means assessment of assets. To apply the income from assets exemption, the client will need to provide proof that the asset is realisable.

Note you may need to seek advice from a Financial Analyst to determine the income from a life interest or lease for life, if any.

For more information see:

- [Client asks for life interest or lease for life to be included](#)
- [Life interest or lease for life](#)
- [Income from assets](#)
- Residential Care Subsidy [Life interest or lease for life](#) procedures

Legislation

- Definition of assets [schedule 27](#) Social Security Act 1964

Client did not have original ownership of the asset

These situations occur when the client has inherited the life interest or lease for life through a will. For example their deceased spouse or partner grants the client a life interest or lease for life in the family home, with their children the ultimate beneficiaries.

Generally, the client has not deprived themselves of an asset as it was never theirs. However, a client has the right to claim half of the family home under the Family Protection Act. Even though the client may have a right to half the family home, the client is not required to make this claim and no deprivation is to be considered.

For more information see:

- [Life interest or lease for life](#)

Income excluded

Do not include the following income when completing the means assessment of income:

- any income that is earned by the client's partner (if any) from personal effort
- any benefit paid to the client's partner (if any)
- any pension or allowance paid under the War Pensions Act 1954, for War Disablement or to a surviving spouse
- any overseas war pension paid by the government of any Commonwealth country provided they are the equivalent of the New Zealand War Disablement Pension or New Zealand Surviving Spouse Pension
- 50% of any pension received by a client or their partner (if any) under a superannuation scheme constituted in New Zealand or overseas
- 50% of any payments received by a client or their partner (if any) under a life insurance policy either issued in New Zealand or overseas
- any compensatory or ex gratia payments from any country to a client or their partner (if any) because they were a prisoner of war, civilian internee or a victim of persecution of any country during the Second World War or were a dependent child of someone that was
- ex gratia payments paid to people who have suffered a personal injury that is or was caused by a Hepatitis C infection contracted through the New Zealand blood supply. This exemption applies only in the first 12 months after the payment is made
- ex gratia payments made by the New Zealand Government to Vietnam Veterans, their partner (including former partners) or their natural children and their children's immediate family
- any interest generated from the compensatory or ex-gratia payments referred to above
- any interest derived from any pre-paid funeral of the client or their partner (if any)
- any interest derived from any KiwiSaver account or superannuation scheme account within the locked-in period of the client or their partner (if any)
- payments of back wages for a sleepover that an employer makes to a person

who is entitled to the payment under the Sleepover Wages (Settlement) Act 2011, and in respect of the period on or after 1 June 2004 to 30 June 2011, to which the back wages relate.

- any ACC Independence Allowance paid as a continuing payment
- any Temporary GST Assistance paid to the client or their partner
- the following payments are exempt as income for:
 - 24 months from the date of payment if the client intends to use the payment to repair or rebuild the home or purchase a further home **or**
 - 12 months from the date of payment in all other cases
 - payments from the Canterbury Earthquake Commission (Red Cross)
 - payments from the Earthquake Commission and insurance companies for:
 - rebuilding or repairing the damage to homes caused by the Canterbury Earthquake 2010 (including aftershocks) or
 - the costs of renting temporary accommodation because people can no longer live in their home due to damage from the Canterbury Earthquake 2010 (including aftershocks)
 - any interest earned on payments received from the Earthquake Commission, insurance companies and the Canterbury Earthquake Commission (Red Cross) as a result of the Canterbury Earthquake 2010
- payments made by the Crown on or after 23 June 2011 for the purchase of property in the Canterbury red zone and any income earned from any investment of the payment are exempt for 24 months from the date the payment is made, if the client intends to use the payment to repair or rebuild the home, or purchase a replacement residential home

For more information see:

- Types of income [Payments from Earthquake Commission and insurance companies \(Canterbury Earthquake 2010 and 2011 aftershock\)](#)
- Types of income [Payments from Canterbury Earthquake Commission \(Red Cross\)](#)
- Types of income [Payments from the Crown for the purchase of property in the Canterbury red zone](#)
- Types of income [Sleepover wages settlement payments](#)

Legislation

- Definition of income [schedule 27](#) Social Security Act 1964
- income (definition) [section 3](#) Social Security Act 1964
- [Social Security \(Income and Cash Assets Exemptions\) Regulations 2011](#)

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Maximum contribution

The maximum contribution limits the weekly amount that individuals must pay towards their contracted care. This applies to all clients who have been needs assessed as requiring long term residential care.

The maximum contribution applies to a person regardless of whether they are financially eligible for Residential Care Subsidy or not.

The maximum contribution will vary depending on which Territorial Local Authority the hospital or rest home is located in.

Note a client is not required to make a private contribution if the means assessment of their income determines that their contribution is less than \$5.00 per week.

For more information see:

- Deskfile [Territorial Local Authority maximum contribution rates](#)
- [Means assessment of income](#)

Legislation

- Maximum contribution [section 152](#) Social Security Act 1964

Deprivation of assets and income

Ministry of Health deprivation of assets and income

This section on deprivation of assets and income reflects the policy intent of the Ministry of Health in relation to a person who applies for a Residential Care Subsidy Financial Means Assessment. This policy **should not** be used for assessing deprivation of assets and or income for other benefits, pensions and extra help.

What is deprivation?

It is a deliberate act or inaction resulting in assets or income not being available to the client. It may be direct or indirect. Deprivation generally occurs where a client (or their partner) gives away or sells financial resources (assets) for less than their value. Deprivation of income may include the gifting or selling of income bearing assets.

It does not need to have been done for the purpose of obtaining Residential Care Subsidy. Acts of deprivation for legitimate reasons may still be regarded as deprivation and as a result of correctly exercising the discretion (if applicable) may still be added back.

Who can commit deprivation?

A client and/or their spouse, in respect to an act committed together or alone.

For example, if the act is performed by someone other than the client or their spouse it may not be deprivation.

For more information see:

- [Has deprivation occurred - no](#)
- [Has deprivation occurred - maybe](#)
- [Exercising discretion](#)
- [Factors to consider in exercising discretion](#)
- [Assessing the amount of deprived asset\(s\)](#)
- [Assessing the amount of deprived income](#)

- [Gifting](#)
- [Gifting assessments](#)

Legislation

- Deprivation of assets and income [section 147A](#) Social Security Act 1964
- Deprivation of property and income [regulation 9B](#) Social Security (Long-term Residential Care) Regulations 2005

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Has deprivation occurred - no

These examples are illustrative only and are not intended to be an exhaustive list. Deprivation must be assessed on a case by case basis. However, generally deprivation of either assets or income will not have occurred if the client (or their partner):

- purchases items for personal needs when entering residential care or after the financial means assessment has been completed
- breaks an asset investment in order to meet the assessed income contribution towards the cost of residential care (which then reduces the asset and the income earned from that asset)
- experiences a loss or reduction of income as opposed to a deliberate re-arrangement of finances, for example an investment, which previously provided a reasonable income return, under-performs because of changes in the market
- have a home that was rented out and the rental income stops as the home is no longer tenanted (so long as there is reasonable effort to re-tenant at market rates)
- has a home that remains vacant and there are good reasons for it not to be rented out. Eg the property is being renovated or sold
- defers their rates
- uses a home equity reversed mortgage, to release funds for legitimate purpose such as care costs
- uses funds from the sale of the principal place of residence to purchase a new principal place of residence
- choose to take a conservative approach to financial decisions
- if, while they are both alive, they have changed the ownership of their property from joint to tenants in common. **Note** this should be supported by a change in the certificate of title.
- hold small sums as cash in hand

If you consider deprivation has occurred, advice may be sought from your service centre trainer. If required, the client's circumstances may then be submitted to your service centre manager who may recommend seeking legal, financial or policy advice to decide whether the deprived assets or income should be included in the assessment.

Legislation

- Deprivation of assets and income [section 147A](#) Social Security Act 1964
- Deprivation of property and income [regulation 9B](#) Social Security (Long-term Residential Care) Regulations 2005

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Has deprivation occurred - maybe

These examples are illustrative only and are not intended to be an exhaustive list. Deprivation must be assessed on a case by case basis. However, deprivation may have occurred in a number of circumstances including when the client (or their partner):

- re-arranges their financial circumstances which reduces their income or assets after having received written advice of the income contribution they are required to make
- loans significant amounts of cash interest free
- gifts significant amounts of assets in any one particular year
- a property transaction before the commencement of the gifting period for no or unreasonably low consideration
- uses the home equity reversed mortgage to lend money to others
- gifts over the allowable gifting limit. **Note** for excess gifts within the 5 year prescribed gifting period there is no discretion and these must be included in the means assessment of assets
- changes the ownership of land or the home registered as a joint tenancy when one party has died or lost capacity or where there is insufficient evidence as to the reason for the change
- transfers or gifts a property to a trust or family member
- has cash assets of more than \$15,000 (for a single person) or \$30,000 (for a married couple or defacto partner) which are held as non-income earning assets
- does not seek income from their family trust
- has not ensured that they will continue to have the right to receive income from assets that they have transferred to a family trust or other entity
- disclaims an inheritance
- fails to demand a payment or waives a right to income, for example does not charge interest
- has a previous income stream such as estate income or trust income that

ceases

- has significant investments or financial arrangements that are structured and managed in a way that does not generate a reasonable income stream.

For example, the transfer of assets to a trust may not itself constitute a deprivation of assets. However, if the effect of the transfer of income earning assets to a trust is that the client (who is a beneficiary of the trust) receives less income than might otherwise have been expected, or if the trust invests its funds in such a way that a reasonable return on these investments is not received, then the client may have deprived themselves of income.

The client may have no effect on how the trust invests the funds, and the facts of each case must be considered individually.

Questions over trust investments and income should be referred to the Service Centre Trainer who may seek legal or financial advice.

The fact that deprivation has occurred does not mean that assets and or income should automatically be counted back in, unless it is excess gifting within the gifting period. In the case of excess gifting within 5 years, there is no discretion.

Otherwise there is discretion and if you are satisfied deprivation by the client and/or their spouse or partner has occurred you may add the deprived amount back into the financial means assessment, see: [Exercising discretion](#)

If you consider deprivation has occurred, advice may be sought from your Service Centre Trainer. If required, the client's circumstances may then be submitted to your Service Centre Manager, who may recommend seeking legal, financial or policy advice to decide whether the deprived assets or income should be included in the assessment.

For more information see:

- [Exercising discretion](#)
- [Factors to consider in exercising discretion](#)
- [Gifting](#)

Legislation

- Deprivation of assets and income [section 147A](#) Social Security Act 1964
- Deprivation of property and income [regulation 9B](#) Social Security (Long-term Residential Care) Regulations 2005

Exercising discretion

The Social Security Act 1964 provides the Chief Executive with discretion to include in the financial means assessment the asset or income that the client (or their partner) has directly or indirectly deprived themselves of.

As part of any consideration to exercise discretion, you must take into account the individual circumstances of the client on a case by case basis. There is no set criteria and there is no "list" to apply.

Understanding the client's circumstances and choices that they have made, will help you decide (based on the facts) whether deprivation has occurred and whether to count the asset or income back into the financial means assessment.

Considering deprivation is a two stage process:

First

consider the facts of each case and determine whether the client has deprived themselves of assets/and or income as a result of their actions

then

consider whether you should exercise your discretion to overlook, or whether the assets and/or income should be counted back into the financial means assessment. You must provide clear reasons.

Note the fact that discretion is available does not mean it should be exercised in the client's favour. You must assess and determine it on the facts of each case.

If you consider deprivation has occurred, advice may be sought from your Service Centre Trainer. If required, the client's circumstances may then be submitted to your Service Centre Manager who may recommend seeking legal, financial or policy advice to decide whether the deprived assets or income should be included in the assessment.

For more information see:

- [Factors to consider in exercising discretion](#)

Legislation

- Deprivation of assets and income [section 147A](#) Social Security Act 1964

- Deprivation of property and income [regulation 9B](#) Social Security (Long-term Residential Care) Regulations 2005

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Factors to consider in exercising discretion

In the exercise of your discretion, you need to consider all provided (the) relevant facts. To help you determine whether the client has deprived themselves of assets/and or income and whether these should be counted back in the following should be considered:

- is the client already in residential care?
- are they about to enter residential care?
- what are the client's financial arrangements as at the date of their first financial means assessment?
- does the client have any right to access income from either an estate or trust or agreement?
- did the client choose not to preserve their right to access income from either an estate or trust or agreement?
- what are the terms of their investments?
- when were the original investments established?
- would there be any loss of capital resulting from re-arrangement?
- have they recently re-arranged the investment from a previously high return to low return?
- have we already advised the client of their income contribution?
 - is the client applying for a review of their financial means assessment as a result of re-arranging their finances?
 - are there any other individual factors which appear relevant?

Your Accountant - Financial Determination will be able to help you determine what the client's financial arrangements are.

In the exercise of your discretion, you may often have to attribute weight to different evidence and considerations. The requirement on you is to do so in a reasonable way.

If you consider deprivation has occurred, advice may be sought from your Service Centre Trainer. If required, the client's circumstances may then be submitted to your Service

Centre Manager who may recommend seeking legal, financial or policy advice to decide whether the deprived assets or income should be included in the assessment.

For more information see:

- [Exercising discretion](#)
- [Assessing the amount of deprived asset\(s\)](#)
- [Assessing the amount of deprived income](#)

Legislation

- Deprivation of assets and income [section 147A](#) Social Security Act 1964
- Deprivation of property and income [regulation 9B](#) Social Security (Long-term Residential Care) Regulations 2005

Assessing the amount of deprived asset(s)

The assessed amount of deprived asset(s) is the actual value of the asset or the part of the asset that the person has deprived themselves of. This amount may be added back into the financial means assessment.

For example, if the person has sold a property for less than its value, then the difference between the amount received and the actual value would be the amount of the deprived asset.

If the person has gifted assets during the gifting period, you will need to determine the amount of any [gifts in excess of the allowable limit](#). This amount must be added back into the financial means assessment.

Your Accountant - Financial Determination will be able to help you determine what the client's financial arrangements are.

For more information see:

- [Gifting](#)
- [Has deprivation occurred - maybe](#)
- [Exercising discretion](#)

Legislation

- Deprivation of assets and income [section 147A](#) Social Security Act 1964
- Deprivation of property and income [regulation 9B](#) Social Security (Long-term Residential Care) Regulations 2005

Assessing the amount of deprived income

If deprivation of income has occurred and the deprived income is to be counted back in then, generally the assessed amount of deprived income is the actual amount of income that the person has deprived themselves of or previously been assessed to contribute. This must be added back into the financial means assessment.

For example if money previously invested is transferred to a non-income earning account then the amount previously being earned on the investment would be deemed the deprived income.

Your Accountant - Financial Determination will be able to help you determine what the client's financial arrangements are.

Note no notional income charge is assessed against the gifts made that are under the allowable gift limit.

Also note if the amount of deprived income is unable to be assessed at the same rate as previously applied, the Reserve Bank average retail six month deposit Interest Rate may be used.

For more information see:

- [Example of using Reserve Bank Interest Rate](#)
- [Gifting](#)
- [Has deprivation occurred - maybe](#)

Legislation

- Deprivation of assets and income [section 147A](#) Social Security Act 1964
- Deprivation of property and income [regulation 9B](#) Social Security (Long-term Residential Care) Regulations 2005

Example of using Reserve Bank Interest Rate

Client qualified for Residential Care Subsidy 15 November 2013 and is assessed to pay a personal contribution of \$123.91 per week.

Financial Means Assessment of assets and income as at 15 November 2013

Assessment of assets	Amount	Interest rate	Assessment of income
Cheque account	\$12,000	Nil	Nil
Term investment	\$120,000	7.8%	\$9,360
Total	\$132,000		\$9,360 per annum
Less tax			\$1,965.60
Less income from assets exemption (as at 1 July 2013)			\$951.00
Total			\$6,443.40 (\$123.91 per week)

Client qualified for Residential Care Subsidy 15 November 2013 and is assessed to pay a personal contribution of \$123.91 per week.

On 8 July 2014 the client applied for a Review of Financial Means Assessment.

The client's Term Investment matured on 1 July 2014, the client purchased a pre-paid funeral \$10,000 and gifted \$6,000. Client has loaned her daughter \$100,000 at nil interest.

The balance of the investment was credited into her cheque account.

Review of Asset and Income assessment as at 8 July 2014

Assessment of assets	Amount	Interest rate	Assessment of deprived income
Cheque account	\$15,000	Nil	Nil
Loan to daughter	\$100,000	Nil	Unable to use previous term investment interest rate (7.8%) Reserve Bank interest rate 3.86% (as at 08/07/2014) \$100,000 @ 3.86%
Sub total	\$115,000		\$3,860 per annum

Less tax (RWT @ 21%)			\$810.60
Less income from assets exemption (as at 1 July 2014)			\$963.00
Total			\$2,086.40 (\$40.12 per week)

Client's personal contribution has been reviewed, deprived income assessed at \$40.12 per week from 8 July 2014.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Benefit or pension contribution

Clients eligible for Residential Care Subsidy must contribute any benefit or pension they receive (less a [personal allowance](#)) towards the cost of their contracted care. This is usually done by a redirection of benefit. They may also have to make a further contribution if they receive other income.

Overseas Pensions

If a client is receiving an age related government pension from overseas this is treated the same as New Zealand Superannuation or other pension. The contribution payable is assessed as the net weekly amount of the pension less the personal allowance.

Example

A client has an overseas pension of \$300 per week, they are able to keep \$43.23 (personal allowance as at 1 April 2014) while \$256.77 must be paid to the service provider.

Note it is the client's responsibility to pay the required contribution to the service provider and retain their personal allowance.

Legislation

- Means assessment under Part 4 [schedule 27](#) Social Security Act 1964

Personal allowance

Clients who are eligible for Residential Care Subsidy are able to retain a portion of their New Zealand Superannuation or other benefit/pension (referred to as the personal allowance) for their personal needs before the balance is paid to the service provider.

The personal allowance enables the client to purchase items such as shampoo, magazines and postage stamps. It is not intended to be used to cover services which are included in the fee paid to the service provider.

For more information see:

- Deskfile [Personal allowance rates](#)
- [Payment of personal allowance](#)
- [Existing client debt or payees](#)

Legislation

- Means assessment under Part 4 [schedule 27](#) Social Security Act 1964
- Personal allowance [regulation 12](#) Social Security (Long-term Residential Care) Regulations 2005

Payment of personal allowance

The personal allowance should be paid to a personal bank account nominated by the client, or a close relative or agent appointed by the client (not to the service provider).

When the client is unable to nominate an agent, they should be offered assistance from an organisation such as Age Concern NZ, the Accredited Visitors Service, the Retired Persons' Association or other church or service group.

Exception

If it is the express wish of the client, payment of the personal allowance may be made to the service provider, but it must be made to a separate trust account, not the business operating account.

For more information see:

- Deskfile [Personal allowance rates](#)

Clothing allowance

Clothing Allowance is paid annually to all clients who receive Residential Care Subsidy or Residential Care Loan.

The annual payment is made automatically around the 1 April each year to the bank account that the client's personal allowance is paid to.

Clients are eligible for a Clothing Allowance if:

- they have applied for Residential Care Subsidy before 1 April in any year
and
- are financially eligible for Residential Care Subsidy **or**
- a Residential Care Loan is approved

For the current rate of the Clothing Allowance see:

- Deskfile [Personal allowance rates](#)
- Residential Care Subsidy Processing standards [Clothing Allowance](#)

Legislation

- Regulations relating to the Part [section 155](#) Social Security Act 1964
- Means assessment [schedule 27](#) Social Security Act 1964

Additional assistance

Clients receiving Residential Care Subsidy may be able to receive a Special Needs Grant or Advance Payment of Benefit for essentials items, for example glasses, dentures, hearing aids or additional clothing.

Clients receiving Residential Care Subsidy **cannot** receive Disability Allowance, Accommodation Supplement, Temporary Additional Support or Special Benefit.

For more information see:

- [Advance payment of benefit](#)
- [Special Needs Grants](#)
- Residential Care Subsidy [Special Needs Grant and Advance Payments](#) procedures

Legislation

- residential care services (definition) [section 3](#) Social Security Act 1964
- Accommodation Supplement [section 61EA\(4\)\(c\)](#) Social Security Act 1964

Client with a partner in the community

If a client is in [long-term residential care](#) in a hospital or rest home and has a partner living in the community, the partner living in the community may receive:

- New Zealand Superannuation paid at the single sharing accommodation rate or the single living alone rate
- Veterans Pension paid at the single sharing accommodation rate or the single living alone rate **or**
- Emergency Benefit paid at the Supported Living Payment single or sole parent rate (if they have a dependent child)

The benefit or pension type and rate the partner living in the community receives is determined by the benefit or pension type they are receiving when their partner enters long-term residential care in a hospital or rest home.

For more information see:

- [Summary rates of payment](#)
- New Zealand Superannuation [Non-qualified partner with a partner in long-term residential care](#)
- New Zealand Superannuation [Qualified partner with a partner in long-term residential care](#)
- [Partner in community not receiving a benefit](#)

Special Disability Allowance

If the client in long-term residential care is receiving Residential Care Subsidy the partner living in the community may receive a Special Disability Allowance.

For more information see:

- [Special Disability Allowance](#)
- Residential Care Subsidy [Special Needs Grant and Advance Payments](#) procedures

- Core policy [Relationship status for benefit](#)

Legislation

- Single living alone rate [section 13](#) New Zealand Superannuation and Retirement Income Act 2001
- Commencement date [section 14](#) New Zealand Superannuation and Retirement Income Act 2001
- Entitlement to benefits [section 17](#) New Zealand Superannuation and Retirement Income Act 2001
- Single living alone rate [section 18](#) New Zealand Superannuation and Retirement Income Act 2001

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Partner in community not receiving a benefit

If the partner in the community is not receiving a benefit, they may be entitled to receive an Emergency Benefit payable at the Supported Living Payment single or sole parent rate if they have a dependent child.

Note the commencement date of the Emergency Benefit is subject to the usual stand-down provisions.

If the partner in care has applied for a Residential Care Subsidy any income that is included in the means assessment of income is not charged against the Emergency Benefit. The Emergency Benefit is also not asset tested.

For more information see:

- Emergency Benefit [Qualifications](#)
- [Summary rates of payment](#)
- Deskfile [Supported Living Payment rates of payment](#)
- Core policy [Relationship status for benefit](#)

Legislation

- Entitlement to benefits [section 17\(2\)\(c\)](#) New Zealand Superannuation and Retirement Income Act 2001

Single living alone rate

The partner of a client that has entered a hospital or rest home indefinitely may be eligible for the single living alone rate if they are living alone in their principal place of residence and:

- are eligible for New Zealand Superannuation or Veterans Pension in their own right

or

- were included in their partner's New Zealand Superannuation as a non-qualifying partner before 1 October 1991

The following partners cannot receive the single living alone rate:

- partners living in institutions
- partners paying private board

The single living alone rate can be paid from:

- the date the partner commenced living alone **or**
- 2 September 2013

whichever is the later.

For more information see:

- New Zealand Superannuation [Living alone payment prior to 2 September 2013](#)

Special Disability Allowance

A Special Disability Allowance is paid to a client living in the community to help with extra costs associated with their partner living in residential care when:

- they are receiving New Zealand Superannuation, Veterans Pension, Supported Living Payment, Jobseeker Support or a related Emergency Benefit **and**
- their partner is receiving Residential Care Subsidy **and**
- their partner is required to pay a benefit contribution towards their care

Special Disability Allowance should be started from:

- the date the partner in care became financially eligible for Residential Care Subsidy

When the client leaves the rest home **or** the person receiving the Special Disability Allowance is also admitted to hospital or long-term residential care the Special Disability Allowance should be stopped from:

- the date of the event (if in the current pay-period) **or**
- the first available date if the advice of the change in circumstances is received within 14 days of the event **or**
- the date of event if the advice of change in circumstances is received more than 14 days after the event

Following the death of the client in care Special Disability Allowance should be stopped from:

- the day after the death of the client (if in the current pay-period) **or**
- the first available date if advice of the death is received within 14 days **or**
- the day after the death of the client if the advice is received more than 14 days after the date of death

Following the death of the partner in the community, Special Disability Allowance forms part of the Terminal Benefit and can continue for 4 weeks. This applies to the partner in the community receiving New Zealand Superannuation in their own right, Emergency Benefit paid at the Supported Living Payment rate, or as a partner receiving a joint

(apportioned) benefit.

For more information see:

- Deskfile [Special Disability Allowance rate](#)
- [Advises more than 14 days after the event](#)
- [Death of a client](#)
- [Terminal benefit rate](#)
- New Zealand Superannuation [Death of a married, civil union or defacto client](#)
- [Terminal benefit to surviving partners flowchart](#)

Legislation

- Regulations [section 155](#) Social Security Act 1964
- Disability allowance [section 69C\(5\)](#) Social Security Act 1964
- [nineteenth schedule](#) Social Security Act 1964
- Special Disability Allowance [section 20](#) New Zealand Superannuation Act 2001

Advance payment of benefit

A client who is financially eligible for Residential Care Subsidy may be able to receive an Advance Payment of Benefit if they meet all of the [qualifications](#).

Note before considering an Advance Payment of Benefit, check that the item that they are applying for is not paid by, or the responsibility of, the service provider.

Repayment

The Advance Payment of Benefit must not be recovered from the client's Personal Allowance unless the client gives their permission.

Do not commence recovery of an Advance Payment of Benefit when the client is receiving Residential Care Subsidy. In the event of death seek recovery from the client's estate.

For more information see:

- [Existing client debt or payees](#)
- Residential Care Subsidy [Special Needs Grant and Advance Payments](#) procedures

Summary rates of payment

The following rates and benefit types are paid to the partner living in the community when a client enters [long-term residential care](#) in a hospital or rest home:

Partner living in the community currently receives	Benefit or Pension type and rate payable when their partner enters care	May be able to receive the single living alone rate?	May be able to receive a Special Disability Allowance?
New Zealand Superannuation or Veterans Pension in their own right	Single sharing accommodation rate of New Zealand Superannuation or Veterans Pension	Yes	Yes (if partner in care is eligible for Residential Care Subsidy)
New Zealand Superannuation as a non-qualified partner who was included before 1 October 1991	Single sharing accommodation rate of New Zealand Superannuation	Yes	Yes (if partner in care is eligible for Residential Care Subsidy)
New Zealand Superannuation as a non-qualified partner included in New Zealand Superannuation on or after 1 October 1991	Emergency Benefit paid at the Supported Living Payment single or sole parent rate depending on their circumstances	No	Yes (if partner in care is eligible for Residential Care Subsidy)
Veterans Pension as a non-qualified partner	Single sharing accommodation rate of Veterans Pension	Yes	Yes (if partner in care is eligible for Residential Care Subsidy)
Any other benefit apart from New Zealand Superannuation or Veterans Pension	Emergency Benefit paid at the Supported Living Payment single or sole parent rate depending on their circumstances	No	Yes (if partner in care is eligible for Residential Care Subsidy)

Note if the partner in care has applied for Residential Care Subsidy, any income that is included in the means assessment of income is not charged against New Zealand Superannuation or Veterans Pension (where they continue to be income tested) or Emergency Benefit.

For more information see:

- [Single living alone rate](#)
- [Special Disability Allowance](#)
- [Partner in the community not receiving a benefit](#)
- Deskfile [New Zealand Superannuation rates of payment](#)
- Deskfile [Supported Living Payment rates](#)

RELEASED UNDER THE OFFICIAL INFORMATION ACT