



4 April 2023

Tēnā koe

Thank you for your email to the Ministry of Social Development (the Ministry) on 12 January 2023 requesting information under the Official Information Act 1982 (the Act) regarding deductions from benefits.

On 13 February 2023, the Ministry emailed you to advise that more time was required to respond to your request for information and a decision would be with you on or before 13 March 2023. The reasons for the extension were that consultations necessary to make a decision on the request were such that a proper response to the request could not reasonably be made within the original time limit and your request is for a large quantity of official information or necessitates a search through a large quantity of information and meeting the original time limit would unreasonably interfere with the operations of the Ministry.

I apologise for the delay in responding to your request and thank you for your patience.

You asked a range of questions and to assist, we have attached separately as Appendix One, a table listing your questions in turn, the Ministry's response, and additional details of the reasons for refusing your request, where we have not been able to provide you with information. As you asked the same questions across each of the individual years you specified (2019 to 2022), I have grouped these together, for ease.

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

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

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

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

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

Ngā mihi nui

Bridget Saunders

Bridget Saunders
Manager
Issue Resolution
Service Delivery

Appendix One

Question number	Ministry response	Additional information
<p>1. How many new attachment orders for a civil debt were received by MSD against Work and Income (WINZ) benefits in 2019, 2020, 2021, 2022?</p>	<p>The Ministry is unable to provide you with the number of new attachment orders as this information is held in notes on individual case files. In order to provide you with this information, Ministry staff would have to manually review a substantial number of files. As such, I refuse your request under section 18(f) of the Official Information Act 1982 (the Act). The greater public interest is in the effective and efficient administration of the public service.</p> <p>I have considered whether the Ministry would be able to respond to your request given extra time, or the ability to charge for the information requested. I have concluded that, in either case, the Ministry's ability to undertake its work would still be prejudiced.</p>	<p>The Ministry of Justice (MOJ) has the authority to direct the application of a civil attachment order to a main benefit, in order to meet outstanding court fines or to pay a creditor. Work and Income is required to deduct a specified amount or percentage from a judgement debtor's benefit. However, there may be exceptions, specifically in regard to protected rates of benefits which you have asked about near the end of your request and I have provided a response there.</p> <p>More information about court attachment orders can be found at Work and Income's website here: www.workandincome.govt.nz/map/income-support/main-benefits/jobseeker-support/changes-and-reviews-jobseeker-support/court-attachment-orders-01.html and MOJ's website here: www.justice.govt.nz/fines/about-civil-debt/collect-civil-debt/attachment-orders/.</p>
<p>2. How many attachment orders in total did MSD have in operation against benefits in 2019, 2020, 2021, 2022?</p>	<p>Refer to Appendix Two, Table 1.</p>	
<p>3. In terms of the amount that was taken out of a benefit, which of these ranges indicates the most common amount deducted for a civil debt attachment order in 2019, 2020, 2021, 2022:</p> <ol style="list-style-type: none"> a. \$5 - \$10 weekly (\$10 - \$20 fortnightly) b. \$11 - \$20 weekly (\$22 - \$40 fortnightly) c. \$21 - \$30 weekly (\$42 - \$60 fortnightly) d. Greater than \$30 weekly (greater than \$60 fortnightly) 	<p>Refer to Appendix Two, Table 1.</p>	

<p>4. How many benefits were subject to deductions by MSD for overpayments in 2019, 2020, 2021, 2022?</p>	<p>Refer to Appendix Two, Table 2.</p>	
<p>5. In terms of the amount that was taken out of a benefit for an overpayment, which of these ranges indicates the most common amount deducted in 2019, 2020, 2021, 2022?</p> <ol style="list-style-type: none"> a. \$5 - \$10 weekly (\$10 - \$20 fortnightly) b. \$11 - \$20 weekly (\$22 - \$40 fortnightly) c. \$21 - \$30 weekly (\$42 - \$60 fortnightly) d. Greater than \$30 weekly (greater than \$60 fortnightly) 	<p>Refer to Appendix Two, Table 2.</p>	
<p>6. How many benefits were subject to deductions by MSD for recoverable assistance in 2019, 2020, 2021, 2022?</p>	<p>Refer to Appendix Two, Table 3.</p>	
<p>7. In terms of the amount that was taken out of a benefit for recoverable assistance, which of these ranges indicates the most common amount deducted for recoverable assistance in 2019, 2020, 2021, 2022:</p> <ol style="list-style-type: none"> a. \$5 - \$10 weekly (\$10 - \$20 fortnightly) b. \$11 - \$20 weekly (\$22 - \$40 fortnightly) c. \$21 - \$30 weekly (\$42 - \$60 fortnightly) d. Greater than \$30 weekly (greater than \$60 fortnightly) 	<p>Refer to Appendix Two, Table 3.</p>	
<p>8. What was the process by which MSD implemented deductions from benefits for overpayments in 2019, 2020, 2021, 2022? Was any formal court order sought for any such deductions?</p>	<p>The Ministry has implemented deductions from benefits by providing guidance to staff in accordance with the Ministerial Direction on Debt Recovery. You can read more about processes for debt recovery for clients receiving benefits as follow:</p> <ul style="list-style-type: none"> • Recovery rates - https://www.workandincome.govt.nz/map/income-support/extra-help/special-needs-grant/maximum-debt-recovery-rate-01.html • negotiating a repayment of a debt 	

	<ul style="list-style-type: none"> • the recommended maximum recovery rate for clients already in receipt of a benefit (unless the client agrees to pay more) • reviewing rates of repayment if the debtor is in hardship. <p>Please see also:</p> <ul style="list-style-type: none"> • Current client debt - Map (workandincome.govt.nz). <p>The Ministerial Direction on Debt Recovery provides further information regarding how this is to take place. It also refers to the process of issuing deduction notices to third parties, which is another method of debt recovery that is different to deduction from benefits.</p>	
<p>9. On what legal basis were deductions for overpayment made (for example, agreement from the beneficiary? Legislative authority?)</p>	<ul style="list-style-type: none"> • Section 362 of the Social Security Act 2018 imposes a legislative duty on the Ministry to take all reasonably practicable steps to recover sums that are specified as debts due to the Crown. • Section 353 of the Social Security Act 2018 sets out that regulations made under Section 444 of the Act provide for recovery of sums specified as debts due to the Crown, issuing of deduction notices, and other related matters. • Regulation 206 of the Social Security Regulations 2018 specifies what it means to be a debt due to the Crown and includes identified overpayments, as per Regulation 206(f). • Regulation 209 of the Social Security Regulations 2018 provides that the Ministry must, in performing its duty under section 362 of the Social Security Act to recover a debt, determine from time to time the rate and method of recovery. Regulation 209(2)(b) provides that one of the recovery methods is to deduct all or part of the debt from any amount payable to the person by the Ministry as a benefit or a student allowance. • Section 391 of the Social Security Act 2018, provides debtors the right to seek a review of decision by a Benefits Review Committee. 	
<p>10. What was the process by which MSD implemented deductions from benefits for recoverable assistance in 2019, 2020, 2021, 2022? Was any formal court order sought for any such deduction?</p>	<p>The Ministry has implemented deductions from benefits by providing guidance to staff in accordance with the Ministerial Direction on Debt Recovery.</p> <p>You can read more about processes for debt recovery for clients receiving benefits as follow:</p> <ul style="list-style-type: none"> • Recovery rates - https://www.workandincome.govt.nz/map/income-support/extra-help/special-needs-grant/maximum-debt-recovery-rate-01.html • negotiating a repayment of a debt 	

	<ul style="list-style-type: none"> • the recommended maximum recovery rate for clients already in receipt of a benefit (unless the client agrees to pay more) • Reviewing rates of repayment if the debtor is in hardship. <p>Please see also:</p> <ul style="list-style-type: none"> • Current client debt - Map (workandincome.govt.nz) <p>Please note that the Recoverable Assistance Programme (RAP) (Welfare Programme) which can be found at: www.workandincome.govt.nz/map/legislation/welfare-programmes/recoverable-assistance-programme/recoverable-assistance-programme.html outlines the types of recoverable assistance that the Ministry may grant to non-beneficiaries and when they can be granted. RAP should be distinguished from the general "recoverable assistance" that may be granted to beneficiaries.</p>	
11. On what legal basis were deductions for recoverable assistance made (for example, agreement from the beneficiary? Legislative authority?)	<p>In addition to the legislation sections set out in response to Question 9, the following section is also applicable to recoverable assistance:</p> <ul style="list-style-type: none"> • Section 397 of the Social Security Act 2018, debtors have a right to appeal to the appeal authority against a decision of the Ministry to impose a deduction or set specified rate of repayment. 	
<p>12. What proportion of the total number of benefits paid in 2019, 2020, 2021, 2022 were subject to deductions for:</p> <p>a. One or more civil debt attachment orders?</p> <p>b. Overpayments?</p> <p>c. Recoverable assistance?</p>	<p>Please refer to numbers in Table 1 and Table 4 to calculate proportions.</p> <p>Please refer to numbers in Table 2 and Table 4 to calculate proportions.</p> <p>Please refer to numbers in Table 3 and Table 4 to calculate proportions.</p>	<p>If it is helpful for you, one formula to calculate proportions is:</p> <p>Divide the given number (the lower number) by the total number and multiply that number by 100.</p> <p>Example: 2019: SPS benefits with Attachment Orders 6129 divided by 61194 x 100 = 10.01 per cent.</p>
<p>13. What proportion of sole parent support benefits paid in 2019, 2020, 2021, 2022 were subject to deductions for:</p> <p>a. One or more civil debt attachment orders?</p> <p>b. Overpayments?</p> <p>c. Recoverable assistance?</p>	<p>Please refer to numbers in Table 1 and Table 4 to calculate proportions.</p> <p>Please refer to numbers in Table 2 and Table 4 to calculate proportions.</p> <p>Please refer to numbers in Table 3 and Table 4 to calculate proportions.</p>	

General (applies to all years)

<p>14. Does MSD have a process for ensuring that the deductions from a benefit that are put into effect for a civil debt attachment order do not result in the beneficiary receiving less than 60% of the benefit (as required by s 157 of the District Court Act 2016) and if so, what is the process?</p>	<p>The Ministry has policies in place for administering benefit reductions when acting on an attachment order. These ensure that repayments do not exceed the protected earnings rate and specify the priority of benefit redirections already in place.</p> <p>If a debtor has multiple deduction notices or orders issued, the Ministry is required to determine the priority in which these are deducted. Protected earnings rules are taken into account for each order or deduction notice. You can find more information here: Priority of deductions - Map (workandincome.govt.nz).</p> <p>Guidance provided to Ministry staff regarding how this is calculated can be found here: Protected earnings rate - Map (workandincome.govt.nz).</p> <p>Please note that this page also refers to Regulation 224 which relates to deduction notices issued by the Ministry to a third party (i.e. the debtor's employer) and the protected earnings rule also applies to the third party.</p>	
<p>15. Is the Court or Ministry of Justice advised that the attachment order will not be implemented (or will only be partly implemented) if the protected earnings level of 60% is reached in the case of a particular beneficiary?</p>	<p>If an attachment order administered by the Ministry would reduce a client's net income below the protected earnings rate, then the order cannot be put in place. The Ministry will return it to the Ministry of Justice to be amended. Debtors who are suffering hardship due to the deductions imposed by the Ministry from attachment order/deduction notices are directed to contact the Registrar of the District Court for a reassessment of the payment.</p> <p>To ensure that a person's privacy is maintained, Ministry staff generally do not contact the Ministry of Justice directly about a debtor's notice or order.</p>	