



30 January 2023

Tēnā koe

On 8 December 2022, the Ministry of Disabled People (Whaikaha) transferred your request in full to the Ministry of Social Development (the Ministry) for response. You requested, under the Official Information Act 1982 (the Act), the following information:

*We refer to our original request under the Official Information Act 1982 (the **Act**) made via email on 20 September 2022. In particular we refer to paragraph [3.3] which provides as follows:*

1. *What is the legal basis for the requirement that service users in IDEA Services' care contribute any main benefit which they receive under the Social Security Act 2018 to the cost of their care and how that proportion of the main benefits is determined?*
2. *From the materials we have received in response to our request, we understand that there is no explicit statutory authority to redirect benefits as provided for under section 339 of the Social Security Act 2018. Could you please:*
  - 2.1 *Confirm whether this is indeed correct; or*
  - 2.2 *Provide us with:*
    - 2.2.1 *any directions made under section 339 and pursuant to the Ministerial Direction on the Redirection of Benefit Payments (see [Ministerial Direction on Redirection of Benefit Payments : Contents - Map \(workandincome.govt.nz\)](#)):*
    - 2.2.2 *any delegations by the Chief Executive of the Ministry of Social Development of the "good cause" authorisation (as set out in clause 5) provided to the Chief Executive by the*

*Ministerial Direction on the Redirection of Benefit Payments.*

For clarity, the Ministry will now respond to each part your request in turn.

1. *What is the legal basis for the requirement that service users in IDEA Services' care contribute any main benefit which they receive under the Social Security Act 2018 to the cost of their care and how that proportion of the main benefits is determined?*

I refer to the previously provided Cabinet Paper SAR (95) 37 Cabinet Committee on Implementation of Social Assistance Reforms, Outstanding issues for people with psychiatric, intellectual, physical and sensory disabilities requiring Residential and continuing care (DSS Targeting: Part 2), dated 3 April 1995.

The paper states:

- b. *agree that for those people with a psychiatric, intellectual, physical, sensory and younger people with age-related disability in residential and continuing care who are in receipt of a benefit, the status quo will continue; that is they will make a personal contribution towards the cost of care not exceeding the equivalent of the single rate of their parent benefit (the Invalids Benefit, for example) less the appropriate rate of Personal Allowances;*

The appropriate rate of Personal Allowance is as determined by the client's primary disability as assessed by the needs assessor.

2. *From the materials we have received in response to our request, we understand that there is no explicit statutory authority to redirect benefits as provided for under section 339 of the Social Security Act 2018. Could you please:*
  - a. *Confirm whether this is indeed correct; or*
  - b. *Provide us with*
    - o *any directions made under section 339 and pursuant to the Ministerial Direction on the Redirection of Benefit Payments (see [Ministerial Direction on Redirection of Benefit Payments : Contents - Map \(workandincome.govt.nz\)](#)):*

There is a requirement that a person who receives a main benefit, and receives a Residential Support Subsidy, must make a personal contribution towards their care from that benefit. (I refer to Minute b. of SAR (95) M 9/3 as copied above). The Ministry provides guidance to support clients to meet this obligation by redirection of benefit as an option. For more information on

redirections, please see the following link:  
[www.workandincome.govt.nz/map/income-support/core-policy/redirection-of-benefit-payment/redirection-for-client-required-to-contribute-to-care-costs.html](http://www.workandincome.govt.nz/map/income-support/core-policy/redirection-of-benefit-payment/redirection-for-client-required-to-contribute-to-care-costs.html).

Clients receiving Residential Support subsidy are only eligible to receive an appropriate rate of personal allowance from their main benefit. You can see the current rates of personal allowances at the following link:  
[www.workandincome.govt.nz/map/deskfile/extra-help-information/residential-support-subsidy-tables/personal-allowances-current.html](http://www.workandincome.govt.nz/map/deskfile/extra-help-information/residential-support-subsidy-tables/personal-allowances-current.html).

The remaining amount from their benefit is required to be paid as a personal contribution.

Clients (or the nominated agent they elect to act for them) can give consent for the Ministry to redirect benefit payments, however this is not mandatory. The client or nominated agent may decide to meet this requirement by making their own arrangements to pay the required amount of personal contribution in their own capacity (or on behalf of the client).

You can find more information about client authorisation for benefit redirection at the following link:  
[www.workandincome.govt.nz/map/income-support/extra-help/residential-support-subsidy/client-authorisation-for-benefit-redirection-01.html](http://www.workandincome.govt.nz/map/income-support/extra-help/residential-support-subsidy/client-authorisation-for-benefit-redirection-01.html).

If consent is not given, the following directions have been provided to be undertaken as a last resort - although other options must be considered first. For more information, please see the following link:  
[www.workandincome.govt.nz/map/income-support/core-policy/redirection-of-benefit-payment/redirection-without-the-client-s-consent-01.html](http://www.workandincome.govt.nz/map/income-support/core-policy/redirection-of-benefit-payment/redirection-without-the-client-s-consent-01.html)

- *Any delegations by the Chief Executive of the Ministry of Social Development of the "good cause" authorisation (as set out in clause 5) provided to the Chief Executive by the Ministerial Direction on the Redirection of Benefit Payments.*

Please see the following links to the Ministry's Manual and Procedures website for the information provided as direction to staff in respect to *Clause 5, Ministerial Direction on Redirection of Benefit Payments* and decisions on 'good cause':

- [www.workandincome.govt.nz/map/income-support/core-policy/redirection-of-benefit-payment/good-cause-01.html](http://www.workandincome.govt.nz/map/income-support/core-policy/redirection-of-benefit-payment/good-cause-01.html)

- [www.workandincome.govt.nz/map/income-support/core-policy/redirection-of-benefit-payment/good-cause-decision-guidelines-01.html](http://www.workandincome.govt.nz/map/income-support/core-policy/redirection-of-benefit-payment/good-cause-decision-guidelines-01.html)
- [www.workandincome.govt.nz/map/income-support/core-policy/redirection-of-benefit-payment/specific-situations-where-there-is-good-cause.html](http://www.workandincome.govt.nz/map/income-support/core-policy/redirection-of-benefit-payment/specific-situations-where-there-is-good-cause.html).

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 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](mailto: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](http://www.ombudsman.parliament.nz) or 0800 802 602.

Ngā mihi nui



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