



# Report

**Date:** 8 April 2016

**Security Level:** BUDGET SENSITIVE

**To:** Hon Paula Bennett, Minister for Social Housing, Associate Minister of Finance  
Hon Anne Tolley, Minister for Social Development

*This document contains legal advice and is legally privileged. It should not be disclosed on an information request, without further legal advice.*

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## Addressing an IT issue that affected payment rates of Accommodation Supplement for some clients

### Purpose of the report

- 1 This report provides an update on addressing a historical IT issue that affected payment rates of Accommodation Supplement for some clients.

### Recommended actions

It is recommended that you:

- 1 **Note** that this report provides an update on the Accommodation Supplement IT issue which has resulted in either an underpayment or overpayment of Accommodation Supplement for some clients

**Yes/No**

**Yes/No**

- 2 **Note** that the Ministry of Social Development only has clear information on the clients who were affected as at December 2014 and the associated costs (both Accommodation Supplement expenditure and administration costs) for correcting entitlements but funding for Accommodation Supplement expenditure is required

**Yes/No**

**Yes/No**

- 3 **Note** that further analysis is required for clients affected by the Accommodation Supplement IT issue prior to December 2014

**Yes/No**

**Yes/No**

- 4 **Note** that legislative options were considered for those affected prior to December 2014 and that the Ministry of Social Development's view is that legislative options to manage the response are not appropriate as there was no mistake in the legislation or policy intent

**Yes/No**

**Yes/No**

5 **Note** that regardless of the approach taken, the Ministry of Social Development is still obligated to review any client who seeks a review of decision and there is a risk that a large number of previous Accommodation Supplement clients will seek a review, many of whom may not have been affected by the issue

**Yes/No**

**Yes/No**

6 **Note** that due to the current uncertainty of the costs involved, funding for Accommodation Supplement back-payments and any administrative costs will not be sought in Budget 2016

**Yes/No**

**Yes/No**

7 **Note** that the Ministry of Social Development will provide you with updated analysis on the clients affected, advice on the proposed response to the wider issue and the estimated costs in June 2016

**Yes/No**

**Yes/No**

8 **Note** that following agreement to the response to the issue after the June 2016 advice, Cabinet approval will be required for:

- the proposed approach to address the issue
- the approach for funding (both Accommodation Supplement expenditure and administration costs)
- amending the Social Security (Income and Cash Assets Exemptions) Regulations 2011 so that back-payments be made exempt from all forms of cash asset and income tests for benefits for 12 months

**Yes/No**

**Yes/No**

9 **Agree** to forward a copy of this report to the Minister of Finance and Associate Minister of Finance (Hon Steven Joyce)

**Agree/Disagree**

**Agree/Disagree**

The Minister for Social Development:

10 **Agree** to forward a copy of this report to the Associate Minister for Social Development.

**Agree/Disagree**



Nic Blakeley  
Deputy Chief Executive, Social Policy



Date



Carl Crafar  
Deputy Chief Executive, Social Housing



Date

Hon Paula Bennett  
Minister for Social Housing, Associate  
Minister of Finance

Date

Hon Anne Tolley  
Minister for Social Development

Date

## **In 2014, the Ministry of Social Development identified an IT issue which affected the payment rate of Accommodation Supplement for some clients**

- 2 In September 2014, the Ministry of Social Development (MSD) identified an error in the SWIFTT payment system which resulted in an incorrect rate of Accommodation Supplement (AS) being paid to some clients. The SWIFTT payment system is MSD's assessment and payment system which has been used since November 1991.
- 3 On 8 December 2014, a system fix was deployed to prevent the error from occurring. All new AS clients are now receiving the correct AS rate. A number of current and previous AS clients have been underpaid or overpaid since 1991.

## **Initial advice was provided to the Minister for Social Development on back-payments of historical cases**

- 4 As part of the wider Alignment Programme, which looks at misalignment issues in the benefit system, MSD provided advice in March 2016 to the Minister for Social Development on five issues, including the AS IT issue [REP/16/3/200].
- 5 Initial estimates showed that the number of clients that were affected by the error (this does not necessarily mean their AS is incorrect<sup>1</sup>) from November 1991 to date are:
  - around 3,526 clients who were receiving AS on December 2014 (previously referred to as Cohorts 1 and 2 in the report in March 2016)
  - as many as 100,000 clients who are no longer in receipt of AS, but did receive it at some time between November 1991 and December 2014 (previously referred to as Cohort 3).
- 6 Of the 3,526 affected clients receiving AS on December 2014 (Cohorts 1 and 2), it was estimated that there were underpayments of \$1.8m.
- 7 By extrapolating the average under-payment of clients affected in December 2014, the cost of back-payments to clients who were underpaid in Cohort 3 was estimated to be around \$79 million.
- 8 The issue was also discussed at the MSD Agency Meeting with the Minister for Social Development on 14 March 2016. It was agreed that MSD would provide further advice on the implications for clients and how to manage a response.

## **Good information is available on clients who were affected as at December 2014**

- 9 Information on the 3,526 clients who were receiving AS when the error was identified on December 2014 is clearer than for clients affected prior to December 2014 because most of the records have been manually checked to determine if the client is currently being underpaid or overpaid.
- 10 Over a 12 month period, reviews to correct an underpayment or overpayment for these clients are estimated to require 10 full-time dedicated staff. MSD could undertake these reviews within existing baselines.
- 11 MSD could begin actively reviewing these clients and pay back-payments once funding for AS expenditure has been approved.

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<sup>1</sup> Some clients may have been affected by the IT issue but still received the correct rate of AS because the client was entitled to the maximum rate of AS regardless.

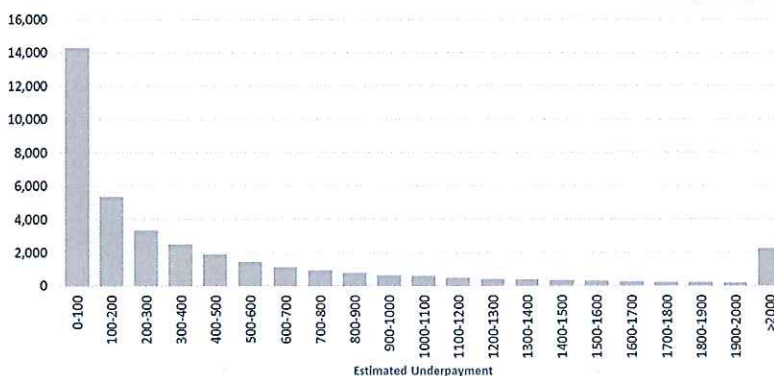
## Legislative options were considered for those affected prior to December 2014

- 12 The AS issue is related to an IT issue which resulted in some clients receiving an incorrect rate of AS. MSD's view is that legislative options to manage the response are not appropriate as there was no mistake in the legislation or policy intent.
- 13 The following legislative options could be considered:
  - limit how far back MSD is required to review a client's record
  - impose timeframes for clients to seek a review
  - validate past practice of paying incorrect entitlements
  - impose a minimum threshold of underpayment required for MSD to review a client's record
- 14 Note that these options would remove a clients' rights to their correct entitlements (where the mistake was through no fault of their own). Legislative change would also be a controversial approach because retrospective validation in this case would not comply with principles set out in the Legislation Design and Advisory guidelines.
- 15 The AS issue is also different to the benefit commencement date issue from last year which occurred because the legislation was drafted incorrectly. While there was a retrospective change to legislation, it was to validate the original policy intent and MSD practice.
- 16 A managed approach is considered a more appropriate approach for this issue.

## MSD has since undertaken detailed analysis on clients who were receiving AS prior to December 2014

- 17 Detailed analysis on every AS client potentially affected prior to December 2014 has since been undertaken using administrative data (a more accurate analysis than initial estimates). This analysis was required to get better information on the size and scale of all the clients who were affected prior to December 2014.
- 18 This analysis shows that from 1996, approximately:
  - 113,500 clients had some conflict between cost code and AS type (this does not necessarily mean their AS is incorrect)
  - 38,000 may have been underpaid - with total underpayments of \$20m
  - 42,000 may have been overpaid - with total overpayments of \$26m.
- 19 The number of clients affected is slightly higher than initial estimates indicated. However, the estimated cost of underpayments for affected clients is lower than MSD initially estimated. A large majority of the clients were underpaid less than \$1,000, as shown in the diagram below.

**Estimated Number of Clients Underpaid**  
For those receiving AS prior to December 2014





## **Further analysis is still required to inform a wider response to the issue**

- 20 The analysis undertaken so far provides a better indication of the size and scale of the issue but further analysis is required to get a better understanding of the composition of the clients affected prior to December 2014, the potential AS underpayments and the administrative costs associated with correcting historical records. This work will help inform the response to the issue, including:
- improvements to the accuracy of the AS calculation regarding underpayments and overpayments for individual clients, which includes building off information that we now know about clients affected as at December 2014
  - analysis of the number of clients who are no longer alive
  - analysis of clients where the error appears to have been fixed and a underpayment or overpayment has been created, which means that a historical review is no longer required
  - the number of clients also receiving Special Benefit or Temporary Additional Support, as any dollar of AS underpayment may be offset by a dollar increase in their rate of Special Benefit or Temporary Additional Support (and vice versa) so a client's overall level of financial assistance might not have been impacted
  - analysis on those affected between 1991 and 1996 (because there are limitations with the data available between these periods due to a change in system and therefore this data has not yet been looked at).

## **Administrative costs associated with correcting historical records will be high**

- 21 The administrative costs of correcting historical records are likely to be significant, due to the size of the number of clients affected and the costs associated with completing a single back-dated review.
- 22 MSD is obligated to review any client who seeks a review of decision. Regardless of the approach taken to respond to the issue, there is a risk that a large number of previous AS recipients request a review of decision, many of whom may not have been affected by the issue. MSD would need to develop a plan to mitigate any risks associated with a large number of unaffected clients coming forward.
- 23 Depending on the final response to the issue, the administrative costs may not be met through existing baselines and additional funding will be required.

## **The response to the issue will need to consider a number of options**

- 24 Due to the size of the number of clients affected, MSD will need to consider a number of options to inform the response to the issue, including:
- are records for clients with overpayments reviewed (where the debt created may be subsequently written-off)
  - how will MSD mitigate the risks of a large number of unaffected clients coming forward seeking a review of decision
  - will a proactive approach only be taken for those who have an underpayment above a set threshold<sup>2</sup> or for those who are not also receiving Special Benefit or Temporary Additional Support.
- 25 Due to the complexity of the issue, it is not possible to automatically calculate and pay any underpayment for an individual. MSD is exploring possible IT solutions to reduce some components of the manual work that is required to review records.

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<sup>2</sup> Where clients who were underpaid AS below the threshold would not be proactively reviewed.

- 26 Further analysis will inform how MSD manage the response as the analysis will provide for a better understanding of the nature of the clients affected.

**Due to the current uncertainty of costs involved, funding will be sought once the response to the issue becomes clearer**

- 27 Given the potential \$22m of AS expenditure, plus associated administrative costs involved, MSD has had discussions with the Treasury on the financial implications.
- 28 Due to timing and the current uncertainty of administrative costs, they have advised that it may not be appropriate for funding to be sought through Budget 2016. Instead, the Treasury have advised the following options for the AS costs:
- the appropriation for AS expenditure be updated via forecast adjustment (recommended by the Treasury)
  - charge the estimated costs against the Between Budget Contingency and update these costs as necessary via forecast adjustment.
- 29 Any funding for administrative costs that cannot be met through existing baselines will be sought through the Between Budget Contingency. This contains risks that any funding required will not be made available.
- 30 Once a final decision on the option for funding has been made by relevant Ministers, Cabinet approval would be required.

**Back-payments should be exempted from income and asset tests**

- 31 Client's owed back-payments will be paid a lump sum. These lump-sum back-payments, and any income derived from them, would be treated as cash assets and income under current rules. This may affect eligibility or entitlement to some forms of financial assistance. For example, a payment may take a client's assets above the AS asset threshold, meaning they may no longer qualify for AS.
- 32 As the back-payments result from an MSD error, it is unfair to penalise clients for receiving their back-payment as a lump sum. MSD recommends all back-payments made be exempt from all forms of cash asset and income tests for benefits for 12 months.
- 33 This would require an amendment to the Social Security (Income and Cash Assets Exemptions) Regulations 2011, which would need to be made in advance of the back-payments being made. Such an amendment would require Cabinet agreement.

**Next steps**

- 34 MSD will report back to you in June 2016 with:
- updated analysis on the composition of the clients affected prior to December 2014
  - advice on the proposed response to the wider issue, including a communications plan
  - the estimated cost of any AS underpayments and administrative costs associated with correcting historical records (including expected timeframes for when funding is required)
  - advice on the approach for funding.
- 35 Following approval by Joint Ministers, the response to the issue will then require Cabinet agreement to:
- the proposed approach to address the issue
  - the approach for funding (both AS expenditure and administration costs)
  - amend the Social Security (Income and Cash Assets Exemptions) Regulations 2011 so that back-payments made be exempt from all forms of cash asset and income tests for benefits for 12 months.