



8 March 2024

Tēnā koe

Official Information Act request

Thank you for your email dated 14 February 2024, in which you requested further information about the Ministry of Social Development's (the Ministry's) approach to debt recovery. Your requests stemmed from my responses to your prior requests made under the Official Information Act 1982 (the Act), dated 18 and 31 January 2024. Thank you also for refining your request on 28 February 2024.

I have considered your request under the Act. Please find my decision regarding each part of your request set out separately below.

- 1. In relation to the description of "Debt recovery approach" and "Contacting non-current clients" provided on pages 2 and 3 of the 31 January 2024 response, could you please confirm whether there are any policy, procedure or equivalent documents that set out this information. If so, could you please provide these documents.**

The Ministry's debt recovery approach is founded on the requirements of the Social Security Act 2018 (the SSA), the Social Security Regulations 2018 (the Regulations), and the Ministerial Direction on Debt Recovery (the Ministerial Direction).

The SSA

- [Social Security Act 2018 No 32 \(as at 22 February 2024\), Public Act 353 Debts and deductions – New Zealand Legislation](#)
- [Social Security Act 2018 No 32 \(as at 22 February 2024\), Public Act 362 MSD's duty to recover debts – New Zealand Legislation](#)
- [Social Security Act 2018 No 32 \(as at 22 February 2024\), Public Act 444 Regulations: debts and deductions – New Zealand Legislation](#)
- [Social Security Act 2018 No 32 \(as at 22 February 2024\), Public Act 448 Regulations: remittance or suspension of debt – New Zealand Legislation](#)

The Regulations

- [Social Security Regulations 2018 \(LI 2018/202\) \(as at 06 November 2023\) 207 Exceptions to duty to recover debts – New Zealand Legislation](#)
- [Social Security Regulations 2018 \(LI 2018/202\) \(as at 06 November 2023\) Subpart 11—Debt recovery suspension – New Zealand Legislation](#)
- [Social Security Regulations 2018 \(LI 2018/202\) \(as at 06 November 2023\) 217 Deduction notice requiring debtor’s payer to deduct, and pay MSD, amount due – New Zealand Legislation](#)

The Ministerial Direction

- [Clause 4. Rate and method of recovery - Map \(workandincome.govt.nz\)](#) requires the Ministry to contact the client to ascertain their ability to repay their debt.
 - Clauses 4(1) to 4(3) are in relation to non-current clients.
 - Clause 4(4) is in relation to clients currently receiving a benefit.
- [Clause 5. Deferral of recovery - Map \(workandincome.govt.nz\)](#) enables the Ministry to temporarily place the recovery of debt on hold if the client, current or non-current, is not able to repay.
- [Clause 6. Deduction notices - Map \(workandincome.govt.nz\)](#) requires the Ministry to advise non-current clients when they have a debt and request that they contact the Ministry to make a payment arrangement.
 - This clause requires the Ministry to send two letters to non-current clients: an ‘important reminder’ and a ‘final warning.’ The Ministry sends these letters to seek repayment or to prompt the client to make contact.
 - If the non-current client does not contact the Ministry to discuss their circumstances, or begin repaying their debt, the Ministry can issue a deduction notice 14 days after the final warning letter has been sent.

It is important to note that Section 362 of the SSA requires the Ministry to take all reasonable and practical steps to recover debt owed to the Crown.

Although the Ministerial Direction requires a minimum of two letters, the Ministry has determined that it should also attempt to contact non-current clients by phone, SMS, and/or email to ensure that every reasonable effort has been made to negotiate a robust and sustainable debt repayment arrangement with the debtor.

2. In relation to the Ministry's contact of non-current clients regarding their debt to the Ministry (see page 3 of the 31 January 2024 response), could you please provide for each of the financial years ending 30 June 2021, 2022, 2023:

a.) How many initial letters were sent to non-current clients (90 days from when a person's benefit payments have stopped);

Please see **Table 1** of **APPENDIX 1** for this information.

b.) How many individuals the Ministry contacted by phone or text after sending the initial letter.

I am unable to provide you with this information as it is held on the files of individual debtors. 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 Act. The greater public interest is in the effective and efficient administration of the public service.

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 impaired.

3. In relation to MSD's Debt write off criteria (<https://www.workandincome.govt.nz/map/income-support/core-policy/current-client-debt/debt-write-off-criteria.html>), could you please provide: The number and total aggregate amount of debt written off in each of the financial years ending 30 June 2021, 2022, 2023.

Please see **Table 2** of **APPENDIX 1** for this information.

I note that the amount of debt written off by the Ministry in the 2022/23 financial year was higher than the amounts which were written off in the two preceding financial years. This occurred due to two reasons:

- a higher than usual number of clients having their debts written off due to entering an insolvency process (e.g. bankruptcy or No Asset Procedure)
- the deaths of a higher than usual number of clients with high value debt (exceeding \$200k), with no funds in their estates to repay the debts. In these circumstances, the Ministry's only option is to write off the debts.

4. Please provide the number of deduction notices issued under reg 217 of the Social Security Regulations 2018 in each of the financial years ending 30 June 2021, 2022, 2023, and specify:

a.) The number issued to employers vs banks;

Please see **Table 3** of **APPENDIX 1** for the number and amount of current bank deduction arrangements for non-current clients as at the end of June 2020 to June 2023.

The data in **Table 3** of **APPENDIX 1** includes bank deductions made from deceased estates in addition to those made pursuant to Regulation 217 of the Regulations. Bank deductions made from deceased estates are not governed by the provisions of Regulation 217. It is likely that a significant proportion of the arrangements included in **Table 3** are for bank deductions from deceased estates.

To provide you with the data for bank deductions made under Regulation 217 alone, separated from those of deceased estates, would require Ministry staff to undertake substantial manual collation and review of individual client records. As such, I refuse this aspect of your request under section 18(f) of the Act. The greater public interest is in the effective and efficient administration of the public service.

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 impaired.

I note that the Ministry will only consider enforcing the recovery of debt through bank deductions when all other reasonable options have been exhausted. The Ministry's standard process, as the first step, is to engage with non-current client debtors to make voluntary repayment arrangements. In some cases, non-current clients voluntarily ask the Ministry to recover debt through bank deduction.

I refer you to **Table 5** of **APPENDIX 2** of my response to your previous request under the Act, dated 31 January 2024 for the information regarding employer deduction arrangements for debt recovery.

b.) The average deduction amount (for non-lump sum deductions) required;

I refer you to **Table 5** of **APPENDIX 2** of my previous response to your request for information under the Act, dated 31 January 2024, in which this information was provided earlier.

c.) The total amounts received [by] the Ministry under the deduction notices in these periods;

I am unable to provide you with this information as it is held on the files of individual debtors. 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 Act. The greater public interest is in the effective and efficient administration of the public service.

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 impaired.

5. Please provide the number of instances where recovery of debt has been temporarily deferred under reg 210 in each of the financial years ending 30 June 2021, 2022, 2023.

I am unable to provide you with this information as it is held on the files of individual debtors. 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 Act. The greater public interest is in the effective and efficient administration of the public service.

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 impaired.

6. Please provide the number and total aggregate amount of recoverable assistance payments and recoverable special needs grants that remain outstanding in each of the financial years ending 30 June 2021, 2022, 2023 and specify:

a.) Please refer to **Table 4** of **APPENDIX 1** for the number of clients and total debt balance for recoverable assistance debt as at the end of June 2020, June 2021, June 2022, and June 2023.

b.) The duration of time that the recoverable payment or grant has been owed (i.e. since being made) – e.g. 0-6 months ; 6-12 months; 12-24 months; 24-36 months; 3 years – 5 years; 5 years+

I am unable to provide you with information in relation to this aspect of your request as it is held on the files of individual debtors. 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 Act. The greater public interest is in the effective and efficient administration of the public service.

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 impaired.

7. In relation to table 3, ("Total and average debt owed by non-current clients to the Ministry of Social Development as at end of the financial year for financial years ending June 2021 to June 2023") provided in your response 31 January 2024 (BIIM-3953), could you please:

a.) The category of debt – e.g. fraud debt, overpayment debt, and recoverable assistance;

Please see **Table 6** of **APPENDIX 1** for this information.

b.) The type of debt by benefit type – e.g. Jobseeker Support (and other benefit types), housing, Student Allowance, Acc, Childcare Subsidy, Childcare Provider, Child Disability Allowance, Handicapped Child Allowance, Fraudulent Student Loan, Emergency Housing Debt

Please see **Table 5** of **APPENDIX 1** for this information.

c.) If possible, could you also (c) separately provide the breakdown by benefit type further broken into the categories of debt (e.g. fraud debt, overpayment debt, and recoverable assistance).

The data in **Table 3** has come directly from the Debt Management System (DMS) for non-current clients. To provide the category of debt (e.g. fraud, overpayment debt or recoverable assistance), the Ministry is required to use the data held in the Client Transaction Audit Trail (CTAT), as the debt categories are not retained in DMS.

Consequently, the debt balances for each financial year may differ from those held in **Table 3**. The other point to note is that CTAT can only provide the category of debt retrospectively to 2020. This means that all historic debt held in DMS prior to 2020 will show as overpayment debt.

d.) Break the total aggregate amount down into the duration of time that the debt has been owed – e.g. 0-6 months ; 6-12 months; 12-24 months; 24-36 months; 3 years – 5 years; 5 years+.

I am unable to provide you with information in relation to this aspect of your request as it is held on the files of individual debtors. 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 Act. The greater public interest is in the effective and efficient administration of the public service.

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 impaired.

8. In relation to table 4, ("Payments made for debt owed by non-current clients to the Ministry of Social Development for financial years ending June 2021 to June 2023") provided in your response 31 January 2024 (BIIM-3953), the number of total payments is far less than the total number of non-current clients with debt (see table 3). Please provide any internal policy, report, advice, memorandum or other commentary relating to why the number of non-current clients repaying their debt is less than the total number, as well as any corresponding analysis or statistics.

It is important to note that not all non-current clients have the means or ability to repay their debts to the Ministry.

The number of non-current clients includes people who may:

- have debt recovery suspension for the first 90 days
- have their debt recovery deferred for a period of time, determined in accordance with the provisions of the Ministerial Direction, as noted in my response to question one of your request
- be overseas
- be in prison
- be subject to an insolvency process (e.g. Bankruptcy or No Asset Procedure)
- not have their own income (e.g. they may be financially supported by another person).

I will publish this decision letter, with your personal details deleted, on the Ministry's website in due course.

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 my decision on your request, 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

p.p. 

Magnus O'Neill
General Manager
Ministerial and Executive Services