

Cabinet Business Committee

EXTENDING FINANCIAL ASSISTANCE TO PEOPLE INELIGIBLE FOR ORDINARY SUPPORTS THAT ARE AFFECTED BY THE CHRISTCHURCH TERRORIST ATTACKS

Proposal

- 1 This paper reports back to Cabinet on what income support is available to recent residents and those on temporary visas who may be suffering mental trauma following the Christchurch terrorist attacks. I have identified a gap in support for the above groups.
- 2 To address the gaps in support, I am seeking Cabinet agreement to:
 - 2.1 make regulations to allow holders of the Christchurch Response Visa (Christchurch Visa), which provides a special permanent residency visa, to be eligible for main benefits under the Social Security Act 2018 (the Act) without having to meet a cash asset test; and
 - 2.2 establish a Ministerial Welfare Programme (the Programme) under the Act which would cover those on temporary visas.

Executive summary

- 3 The Ministry of Business, Innovation, and Employment (MBIE) identified that most people at the mosques during the Christchurch attacks were ineligible for ACC support, unless they were physically injured or working at the time. MBIE identified there may be a group of people who had experienced mental trauma because of the Christchurch attacks, but were not eligible for ACC or Ministry of Social Development support, including:
 - 3.1 those who experienced, heard, or saw the attack directly, but were not working; and
 - 3.2 family members or whānau of those who were injured or killed in the attack, but who did not experience, hear, or see the attack.
- 4 Officials have subsequently estimated that this group includes around 364 people; 188 of whom are eligible for the Christchurch Visa (those present at the mosque and their partners, children and parents), and an estimated further 176 adult children or siblings of those present whom are on temporary visas.
- 5 I was invited by Cabinet to identify what support this group is eligible for. I can confirm that people granted a Christchurch Visa are eligible for most benefits under the Act.
- 6 However, because they have not resided in New Zealand for two-years since gaining residency, to qualify for Jobseeker Support (on grounds of hardship) or Emergency Benefit, they must meet hardship criteria. Specifically, this means a cash asset test of \$4,300 for single people and \$7,464 for those in a relationship and/or with children. This group are eligible for supplementary assistance.
- 7 I propose making regulations under the Act to exempt those with Christchurch visas from the two-year residency requirement. The key point to note is that this group would then not have to meet a cash asset test to receive main benefits.

- 8 This is a simple and targeted response for people who have been granted a Christchurch Visa. There is a risk of establishing a precedent of extending the support to new residents who have cash assets; though this is mitigated by the exceptional circumstances of the Christchurch attacks.
- 9 The regulations could be drafted and MSD could operationalise the changes within three weeks of Cabinet's decision. As we do not know how many people would be affected by the exemption, it is difficult to precisely cost. Using a generous assumption that 20 percent of the 188 would be newly eligible, and received support for the final seven weeks of the financial year; it would cost approximately \$0.076 million in 2018/19. If the support was paid for a full financial year, it would cost \$0.563 million.
- 10 Those on temporary visas are generally not eligible for income support. The exception is for those on temporary visas who are applying for permanent residence and are compelled to stay in New Zealand for unforeseen circumstances. These people can receive Emergency Benefit, Winter Energy Payment, Temporary Additional Support, and Family Tax Credit.
- 11 To cover those who are not eligible for support – people on temporary visas who do not normally reside in New Zealand, but who are impacted by the event. I propose to establish a Programme under section 101 of the Social Security Act 2018. It would provide access, for up to one year, to the same level of support outlined in paragraph 10. It would cover those:
 - 11.1 who have insufficient income for themselves and any dependants; and
 - 11.2 who are either:
 - 11.2.1 eligible for the Christchurch Visa (but have not yet applied for the Visa), or
 - 11.2.2 non-dependent adult children and non-dependent adult siblings (of those who died in the terrorist attacks or those who were injured) who are in New Zealand on temporary visas; or
 - 11.2.3 those who are part of, or connected to, the two mosques or the Christchurch Muslim community experiencing mental trauma due to the attacks, and were present in New Zealand on 15 March, 2019 (this does not include witnesses of the attacks or family members of those who died, who are eligible for the Christchurch Visa);
- 12 There is limited information on the numbers and circumstances of those who may be eligible for support, so a precise costing is not possible. If 25 families (with children) and 50 individuals applied for support, and received support for the final seven weeks of the financial year; it would cost \$0.261 million in 2018/19. If it were paid for a full financial year, it would cost \$1.942 million.
- 13 Regulations and a Programme could be drafted, in place, and operationalised within three weeks of Cabinet's decision.

MBIE identified a possible gap in income support for people suffering mental trauma due to the Christchurch Terrorist Attacks

- 14 MBIE identified that most people at the mosques during the Christchurch attacks were ineligible for ACC support (they had to be physically injured, mentally traumatised, and working at the time). MBIE identified that there may be a group of people who had experienced mental trauma because of the Christchurch attacks, but are not eligible for ACC support, comprising of:

14.1 those who experienced, heard, or saw the attack directly, but were not working; and

14.2 family members or whānau of those who were injured or killed in the attack, but who did not experience, hear, or see the attack.

- 15 These groups can receive mental health services provided by the Ministry of Health. The frontline psycho-social response is the 1737 Mental Health Service that offers brief interventions, 30-minute counselling sessions with a trained counsellor, and can link people into other more specialist services over the phone.
- 16 Anyone affected who has been a New Zealand resident, permanent resident, or citizen for two or more years, will be eligible for welfare support if unable to work following the attacks. But, there remains a group composed of people on temporary visas or residents for less than two years who may not be eligible for any financial support.
- 17 I was invited by Cabinet to report back on welfare support that is available to the above groups, and to consider whether further income support is appropriate. This paper does not include information or options on other welfare supports, such as social housing.

There is limited data on the people affected

- 18 Officials are unable to be precise on the number of people affected, as there is limited data. Based on data provided by MBIE, there is an estimated 364 people (covering those present and their families) who may not be eligible for financial support from W&I due to their residence status. This is made up of 188 people who are eligible for the Christchurch Visa (outlined below) (those present at the mosque and their partners, children and parents), and an estimated further 176 adult children or siblings (and their families) of those present who are on temporary visas. These figures do not include people with resident or citizen status for less than two years, or people on temporary visas who do not normally live in New Zealand (for example tourists).
- 19 The Christchurch Response Visa was established by Cabinet on 25 March 2019 and 15 April 2019 [CAB-19-MIN-121 and CAB-MIN-0172 refers], to make available (through an accelerated process¹) a special permanent resident visa category to:
- 19.1 the immediate family of any individual who died in the Christchurch attacks;
- 19.2 individuals injured and requiring immediate hospital treatment, and their family normally living in New Zealand; and
- 19.3 all those present in the mosques at the time of the attacks (but not physically injured) and normally living in New Zealand, and their families.
- 20 An estimated 188 people are eligible for the Visa (the Visa group), which is based on:
- 20.1 Immediate family of any individual who died in the mosque attacks, as well as individuals injured and requiring immediate hospital treatment at the time of the event and their immediate family (64 people). This is an estimate based on immigration data where names were known.

¹ People offered permanent residency under the Christchurch Response (2019) Visa have two years for their application to be submitted. Some people may want to take time out in their home country before returning to New Zealand.

20.2 All present at the mosques, and their family including parents of those present and grandparents of children present at the mosque (124 people estimated). Immigration does not yet have the names of those present at the mosques. Parents are assumed as two per family.

- 21 There is another group of non-dependent adult children and non-dependent adult siblings (of those who died in the terrorist attacks or those who were injured) who are in New Zealand on temporary visas (visitor, work, or study) who may be suffering mental trauma as a result of the attack (the related and temporary group). The Christchurch Response Visa has not been made available to this group. There is more uncertainty around the size of the related and temporary group; however, a best estimate places the number at 176 people, assuming they have partners and children.
- 22 Officials are aware of 11 adult children who have sought support. Civil Defence Welfare Programme payments and other emergency grants have been made to support those families.

The Social Security Act 2018 provides income support for many people in this group

- 23 To receive Jobseeker Support, Sole Parent Support, and Supported Living Payment, a person must generally be:

23.1 a New Zealand citizen or permanent resident; and

23.2 have resided continuously in New Zealand for a period of at least two years after becoming a citizen or resident.²

- 24 People who do not meet the two year residency requirement may qualify for Jobseeker Support (on grounds of hardship) and Emergency Benefit. To qualify for these benefits, people without the two-year residency requirement are subject to a 'hardship' test, namely a cash asset test.³ The cash asset test is not applied to other main benefits.
- 25 Gifts or donations made to a person in relation to the Christchurch terrorist attack, or any income derived from them, are exempted from cash assets and income testing for 12 months by the Social Security Regulations 2018 [CAB-19-MIN-0134 refers]. However, all other assets that can easily be converted into cash would be counted as part of the cash asset test.

I seek Cabinet's agreement to make regulations to extend support to those granted the Christchurch Visa

- 26 I propose to make regulations to exempt the following people from the two-year residency requirement under the Act⁴:

26.1 those with a Christchurch Visa; and

26.2 people who would have been eligible for a Christchurch Visa, but were already permanent residents, and do not meet the two-year residency requirement.

² Supplementary assistance is not subject to the two-year residency requirement, so those with Christchurch Visas are eligible for that support.

³ Single clients may have up to \$4,300 in assets and those in a relationship and/or with children may have up to \$7,464.

⁴ Sections 16(5) and 421 of the Act allow for regulations to be made to exempt specified people from the two-year residency requirement.

- 27 The exemption means the groups outlined above would be eligible for main benefits without a cash asset test and would be subject to the general rules of the benefit system.⁵
- 28 This is a simple and targeted response for people who have been granted a Christchurch Visa. However, this decision may establish a precedent for waiving the two-year residency criteria when emergency situations arise. The purpose of the criteria is to strike a balance between the contributions new residents have made to New Zealand and the income support they can receive. Access to Jobseeker Support (on grounds of hardship) and Emergency Benefit, both with cash asset tests, ensures residents can access welfare assistance in situations where they are experiencing hardship.
- 29 Establishing a precedent may mean that other groups in emergency situations may propose similar exemptions. For example, a recent migrant to New Zealand may have the proceeds of a sale of their house in a bank account, and lose their job. They may consider it inequitable that they have to meet a cash asset test. Another example is a person who is unlawfully present in New Zealand and has a child. This person would not qualify for services reserved for those with permanent residency or citizenship but the child would have limited access to services, particularly in health and education, despite its immigration status.
- 30 However, this concern should be balanced against the exceptional circumstances of the Christchurch attacks and the specific nature of this exemption. The exemption only affects the two-year residency requirement; and more specifically, the requirement to meet cash asset tests. It is not a wider exemption that would allow other people on temporary visas not affected by the Christchurch attacks to access welfare support, or to remove cash asset tests from benefits that New Zealand citizens would have to meet.
- 31 It is difficult to estimate the precise cost of this proposal, as there is limited information on the circumstances for this group, and how many have significant cash assets. A generous assumption would be that 20 percent of the 188 would fall into this group, who require income support and have cash assets above the appropriate limit. If the 20 percent of the 188 fell into this category⁶, and received support for the final seven weeks of the financial year, the cost would be approximately \$0.076 million in 2018/19. If the support was paid for a full financial year, it would cost \$0.563 million.

I propose establishing a Ministerial Welfare Programme to provide income support to those on temporary visas who are ineligible for other financial support

- 32 If the regulations option is progressed, it would not apply to those on temporary visas.
- 33 MSD can already grant support⁷ to people who are on temporary visas, who are applying for residency and are compelled to remain in New Zealand. People caught in the mosque attacks may be considered to be compelled to remain in New Zealand because of unforeseen circumstances. This group would include people who are applying for the Christchurch Visa, but have not yet completed the application process.
- 34 However, this means that those on temporary visas, who are not applying for permanent residency, are not eligible for income support. This includes one group originally identified by MBIE; those on temporary visas who are not applying for permanent residency, including the non-dependent adult children and non-dependent adult siblings (of those who died in the

⁵ For example, this includes absence from New Zealand rules.

⁶ 20 percent would include ten couples and 18 individuals.

⁷ Including Emergency Benefit, Winter Energy Payment, and Temporary Additional Support. They may also receive Family Tax Credit.

terrorist attacks or those who were injured) and their families. It is estimated that 176 people are on temporary visas.

- 35 As Minister for Social Development, I have legislative authority to approve the establishment of a Programme under the Act. I propose establishing a new and targeted Programme under section 101 of the Act to provide income support for specified groups of people. This section provides me with broad discretion to approve and establish Programmes for the purpose of granting special assistance. This would be the normal way in which MSD provided an income support type payment outside the standard regime in the Act. I seek Cabinet's agreement to the funding required for the new Programme.
- 36 I propose aligning the level of support provided in the Programme to the level of support provided to the group who are on temporary visas, are compelled to stay in New Zealand, and are applying for permanent residency.⁸
- 37 I propose that this Programme be limited to one year, reflecting that this is a temporary response to exceptional circumstances. I will review whether there is still need for this assistance prior to the Programme's expiry and would return to Cabinet to seek funding to extend the Programme if needed.

Eligibility criteria

- 38 Applicants would have to meet the following criteria:

38.1 Are not eligible for other forms of income support, and

38.2 Who have insufficient income for themselves and any dependents, and

38.3 Are in the following situations:

38.3.1 are eligible for the Christchurch Visa; or

38.3.2 are non-dependent adult children and non-dependent adult siblings (of those who died in the terrorist attacks or those who were injured) who are in New Zealand on temporary visas; or

38.3.3 those who are part of, or connected to, the two mosques or the Christchurch Muslim community experiencing mental trauma due to the attacks, and were present in New Zealand on 15 March, 2019 (this does not include witnesses of the attacks or family members of those who died, who are already covered);

- 39 While the Programme will not have a cash asset test, there may be other general rules that apply to equivalent benefits that will be included in the programme.
- 40 These criteria cover the gap in income support identified by MBIE. It removes the blanket requirement for applicants to be experiencing mental trauma. The programme will therefore provide necessary income support to people who have a close connection to the attacks.
- 41 I have also included the criterion of being part of, or connected to, the mosques or the Christchurch Muslim community, and were present in New Zealand on 15 March, 2019. The criterion is deliberately broad and could include a range of situations. For example, it could

⁸ That includes Emergency Benefit (set at the rate of the equivalent benefit the person would otherwise receive based on their circumstances), Temporary Additional Support, the Family Tax Credit (depending on individual circumstances), and the Winter Energy Payment.

include someone who usually attends one of the mosques, but was not there on there on the day of the Christchurch attacks. It could also include friends of someone injured or killed in the attack.

- 42 Establishing whether individuals come within that category will require MSD staff to make a factual determination on the basis of information provided by applicants. This may be a difficult judgement for a case manager to make, particularly when the applicant may be in a vulnerable position.
- 43 This approach might increase the group of people who may apply; with a moderate risk of allowing some people who seek to obtain income support who others may consider do not have a direct connection to the mosques and Muslim community. This is mitigated by the time limited nature of the payment and that it is no more generous than equivalent benefit support.
- 44 As the criteria are relatively broad, it is more likely to set a precedent that could influence future responses to emergencies. However, this is mitigated by the link to the exceptional circumstances of the Christchurch attacks.
- 45 As the eligibility criteria are broad, there are higher operational risks. Officials have advised me that, on a short timeframe, this would be implemented using a manual work around. This means there are limited reporting and IT safeguards in place. With limited reporting options, officials may only be able to assess how many people are receiving the payment, and not a breakdown of why.
- 46 If the demand for this Programme is significant, MSD officials will consider whether IT systems need to be changed to reduce these risks. Further funding may be sought to ensure more robust system support for this option.
- 47 It is difficult to estimate the number of people who would apply for assistance, as we do not know the size or circumstances of the groups involved. To provide a broad indication of the possible quantum of the fiscal implications – If 25 families (with children) and 50 individuals applied for support, and received support for the final seven weeks of the financial year; it would cost \$0.261 million in 2018/19 . If it were paid for a full financial year, it would cost \$1.942 million.

I considered that this eligibility criteria appropriately covers those who require income support

- 48 I also considered whether the following groups should be included in the eligibility criteria:
 - 48.1 people who are providing direct day-to-day support to people who are directly affected by the Christchurch attacks; and
 - 48.2 People who are experiencing mental trauma due to the Christchurch attacks, such as the wider New Zealand Muslim community, but who were not directly affected by it
- 49 People providing day-to-day support includes a range of people, including New Zealand citizens, permanent residents, and those who are eligible for Christchurch Visas. As many of this group would be already eligible for support, I consider existing provision of income support to be sufficient for this group.
- 50 The indirectly affected group outlined in 48.2 is a very broad scope; and would have the highest risk of establishing a precedent for support, as they are not directly impacted by the Christchurch attacks or may not be planning to stay in New Zealand long-term. It would also be the most complex to administer. I therefore considered that including this group in the Programme as inappropriate.

If Cabinet agrees I will instruct officials to draft a Programme that reflects Cabinet's decisions

- 51 If Cabinet agrees, I will instruct officials to draft regulations and a Programme which reflects Cabinet's decisions. I will make decisions on any detailed or technical matters that arise.
- 52 Regulations and a Programme could be drafted, in place, and operationalised within three weeks of Cabinet's decision.

Consultation

- 53 The Ministry of Business, Innovation, and Employment, The Treasury, Immigration NZ, and the Department of Prime Minister and Cabinet have been consulted on this paper.

Financial implications

- 54 The table below outlines the operating balance impacts by the groups that may require income support if making regulations and establishing a Programme is agreed to.

| Vote Social Development | \$m - increase/(decrease) | | | | |
|--|---------------------------|---------|---------|---------|--------------------|
| | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 & Outyears |
| <i>Exempt permanent residents affected by the attacks from the two-year requirement for support under the Social Security Act 2018</i> | 0.076 | - | - | - | - |
| <i>Establish a Ministerial Welfare Programme</i> | 0.261 | | | | |
| Total | 0.337 | - | - | - | - |

Human rights implications

- 55 These proposals will improve the position of certain groups relative to the status quo under the benefit system. Members of the groups being advantaged will generally be Muslim, but this is not the primary reason to distinguish them from other groups who are not also being advantaged. The proposed Programme includes people in, or connected to, the two mosques or Christchurch Muslim community experiencing mental trauma. This criterion does not require the person to be a member of a religious community, or exclude other religious groups. We do not consider there is any unlawful discrimination in this context.

Legislative implications

- 56 If Cabinet agrees to create regulations then I am seeking approval to instruct Parliamentary Counsel Office to draft the necessary regulations within a week. I will take a paper seeking agreement to the draft regulations directly to Cabinet on 20 May, 2019.
- 57 The proposal to establish the payments noted above requires a Programme under section 101 of the Social Security Act 2018.

Regulatory impact and compliance cost statement

58 The Treasury Regulatory Quality Team has determined that the decisions sought in this paper are not subject to the Regulatory Impact Analysis requirements on the basis that they will have no or minor impacts on businesses, individuals or not-for-profit entities.

Gender implications

59 There are no specific gender implications in the proposals in this paper.

Disability perspective

60 There are no specific disability considerations in the proposals in this paper.

Publicity

61 If the new regulations and Programme are agreed to, officials will work with my office to develop a communications strategy for communicating the changes to those newly eligible for income support.

Recommendations

62 I recommended that Cabinet:

- 1 **Note** that MBIE identified a group of people who had experienced mental trauma because of the Christchurch attacks, but were not eligible for ACC support.
- 2 **Note** that officials have estimated that this group includes 364 people.
- 3 **Note** that 188 of this group are eligible for the Christchurch Response Visa (the Visa group), which provides special permanent residency.

Exempting Christchurch Response Visa holders from the two-year residency rule

- 4 **Note** that the Social Security Act 2018 provides a regulation making power to exempt specified people from the two-year residency requirement for main benefits under the Act.
- 5 **Note** that exempting Christchurch Response visa holders from that requirement would mean that they do not have to meet a cash asset test to receive a main benefit.
- 6 **Agree** that the Minister for Social Development establish and approve a Ministerial Welfare Programme under section 101 of the Social Security Act 2018 for the purpose of providing income support to the following people affected by the Christchurch terrorist attacks:
 - 6.1 those with Christchurch Visas; and
 - 6.2 people who would have been eligible for the Christchurch Visas, but were already permanent residents, and do not meet the two-year residency requirement.

- 7 **Instruct** Parliamentary Counsel Office to draft the necessary regulations to exempt those outlined in recommendation 6 from the two-year requirement for support under section 16(2)(a)(i) of the Social Security Act 2018 within one week.

Establishing a Ministerial Welfare Programme

- 8 **Note** that the Minister of Social Development has legislative authority to create Ministerial Welfare programmes.
- 9 **Agree** that the Minister of Social Development draft a Ministerial Welfare Programme with the following features:
- 9.1 Provides an equivalent level of support to those who are on temporary visas, are compelled to stay in New Zealand, and are applying for permanent residency.
- 9.2 Is available for a period of one year after the commencement of the Ministerial Welfare Programme.
- 9.3 Require that applicants must be:
- 9.3.1 Not be eligible for other forms of income support, and
- 9.3.2 Who have insufficient income for themselves and any dependents, and are either:
- 9.3.2.1.1. eligible for the Christchurch Visa, or
- 9.3.2.1.2. non-dependent adult children and non-dependent adult siblings (of those who died in the terrorist attacks or those who were injured) who are in New Zealand on temporary visas, or
- 9.3.2.1.3. those who are part of, or connected to, the two mosques or the Christchurch Muslim community experiencing mental trauma due to the attacks, and were present in New Zealand on 15 March, 2019.
- 9.4 While the Programme will not have a cash asset test, there may be other general rules that apply to equivalent benefits that will be included in the programme, for example abatement rates and thresholds.

Financial Recommendations

- 10 **Note** that Cabinet's approval is only sought for the appropriation changes in 2018/19.
- 11 **Authorise** the Minister of Finance and Minister for Social Development (Joint Ministers) to approve increases to the relevant appropriations in Vote Social Development for 2019/20 and 2020/21, of an amount up to \$5 million per financial year, after the Budget Moratorium and once there is more certainty on future cost.
- 12 **Agree** that any increases to appropriations for 2019/20 and 2020/21 agreed through recommendation 11 above, be charged against the between-Budget contingency, established as part of Budget 2019.

Exempting Christchurch Response Visa holders from the two-year residency rule

- 13 **Agree** to increase spending to provide for costs associated with the policy decision in recommendation 6 above.
- 14 **Approve** the following changes to appropriations to give effect to the decision in recommendation 13 above, with the following impact on the operating balance:

| | \$m - increase/(decrease) | | | | |
|--|---------------------------|----------------|----------------|----------------|-----------------------------------|
| Vote Social Development Minister for Social Development | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 & Outyears |
| <i>Benefits or Related Expenses:</i> | | | | | |
| Jobseeker Support and Emergency Benefit | 0.076 | - | - | - | - |
| Total Operating | 0.076 | - | - | - | - |

Establishing a Ministerial Welfare Programme

- 15 **Agree** to increase spending to provide for costs associated with the decision in recommendation 9 above.
- 16 **Approve** the following changes to appropriations to give effect to the decision in recommendation 15 above, with the following impact on the operating balance:

| | \$m - increase/(decrease) | | | | |
|--|---------------------------|----------------|----------------|----------------|-----------------------------------|
| Vote Social Development Minister for Social Development | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 & Outyears |
| <i>Benefits or Related Expenses:</i> | | | | | |
| Hardship Assistance | 0.261 | - | - | - | - |
| Total Operating | 0.261 | - | - | - | - |

- 17 **Agree** that the proposed changes to appropriations for 2018/19 above be included in the 2018/19 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply.
- 18 **Agree** that that the expenses incurred under recommendation 16 be charged against the between-Budget contingency established as part of Budget 2019.

Hon Carmel Sepuloni
Minister for Social Development

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