



# Report

**Date:** 15 February 2019      **Security Level:** IN-CONFIDENCE

**To:** Hon Carmel Sepuloni, Minister for Social Development  
Hon Kris Faafoi, Minister of Customs

---

## Results of public consultation on the draft Approved Information Sharing Agreement between the Ministry of Social Development and the New Zealand Customs Service

### Purpose of the report

- 1 This report summarises the results of the public consultation on the draft Approved Information Sharing Agreement (AISA) between the Ministry of Social Development (MSD) and the New Zealand Customs Service (Customs). It also sets out the next steps for finalising the AISA.

### Recommended actions

It is recommended that you:

- 1 **note** that public consultation on a draft Approved Information Sharing Agreement between the Ministry of Social Development and the New Zealand Customs Service occurred from 4 December 2018 to 25 January 2019
- 2 **note** that the Privacy Act 1993 requires that before an information sharing agreement can be made, the relevant Ministers must have regard to any submissions made in relation to that agreement
- 3 **note** that the majority of submissions received support the proposal and no changes to the Approved Information Sharing Agreement are recommended from the public consultation
- 4 **note** that further agency consultation has resulted in minor changes being made to the Approved Information Sharing Agreement
- 5 **agree** to make minor changes to the Approved Information Sharing Agreement based on agency feedback

**Agree / Disagree**

**Agree / Disagree**

- 6 **note** it is proposed that a Cabinet paper with the final Approved Information Sharing Agreement attached be considered by the Cabinet Legislation Committee on 19 March 2019

- 7 **agree** that the Minister for Social Development will present the Cabinet paper to Cabinet Legislation Committee, as this paper only has practical implications for the Social Development portfolio.

**Agree / Disagree**

**Agree / Disagree**

---

Pennie Pearce  
General Manager Information  
Ministry of Social Development

..... / ..... / .....

---

Anna Cook  
Director  
Policy  
New Zealand Customs Service

..... / ..... / .....

---

Hon Carmel Sepuloni  
Minister for Social Development

..... / ..... / .....

---

Hon Kris Faafoi  
Minister of Customs

..... / ..... / .....

## Background

- 2 On 28 November 2018, Cabinet Social Wellbeing Committee agreed to the establishment of an AISA between MSD and Customs, as well as approving public consultation to occur on the draft AISA (SWC-18-MIN-0173).
- 3 This AISA gives MSD the legal authority to immediately suspend a client's supplementary assistance payment when the Customs data match shows they are overseas for over 28 days. Without this immediate suspension, MSD must give 10 days' notice to a client before their payment is suspended due to a requirement in the Privacy Act. However, as the client is overseas when MSD gives this notice and consequently does not receive it in time, a debt is created that the client must pay back when they return to New Zealand.
- 4 Consultation was carried out from 4 December 2018 to 25 January 2019. Documents were published to the MSD website. Information was also linked from the govt.nz consultation website "Have Your Say". Communications to stakeholders and staff were sent out by email and the public were invited to submit their feedback via the website, by email to a dedicated inbox or by post.

### **Of the submissions that were in scope, the majority were in favour of establishing the AISA**

- 5 During the consultation period MSD received 62 submissions. Of these submissions 24 were deemed to be out of scope. This was because they did not comment on the AISA itself or were commenting on MSD policy or procedure that was not being consulted on.<sup>1</sup> The following sections provide an overview of the submissions that were in scope.

#### *Submissions that supported the proposal (34)*

- 6 Overwhelmingly the feedback we received supported the proposal. These submitters agreed that changing the process to one that results in reduced debt when a client goes overseas was an idea that MSD should proceed with as intended.
- 7 Examples of supportive comments include:
  - *"Great idea. Easier for all concerned"*
  - *"I agree that it would make sense for MSD to suspend payments without notice on the day after eligibility ends to prevent overpayment and clawing this back."*
  - *"Agree as [it] is a nuisance".*

#### *Submissions that were against the proposal (4)*

- 8 There were only four submissions clearly against removing the 10 day notice period.
- 9 One submitter's view was that it was the client's responsibility to tell MSD of travel dates so data matching was not necessary. While a valid point, completely relying on clients telling MSD of their overseas travel would increase compliance costs and be less efficient than using travel data. Ultimately New Zealand Superannuation/Veteran's Pension clients are not obliged to tell MSD when they go overseas like main beneficiaries are.
- 10 Two submitters felt that every circumstance is different and needs to be judged differently, thus advising MSD that there may be times where the best option is not to suspend payment without a notice period. MSD recognises that there are some exceptional circumstances where our general processes may not be suitable to a

---

<sup>1</sup> The submissions that were out of scope are discussed further in paragraphs 12-13.

particular client's circumstances. However, we already have processes in place to change the standard practice when appropriate for the client.

- 11 Another submitter felt it was important that people are not in debt, but was concerned about surveillance. The proposed AISA does not change what or how much information is shared between Customs and MSD. It only changes what MSD is legally authorised to do with that information.

### **The feedback that was out of scope primarily focussed on MSD policy outside of the proposed AISA**

- 12 Submissions that did not comment on the AISA itself or were commenting on MSD policy or procedure beyond the focus of the consultation were deemed out of scope. These submissions were not counted in the final analysis for this report. The out of scope feedback was not about reducing debt for those travelling overseas by withdrawing the notice period required by the Privacy Act, and was not related to WEP or supplementary payments.
- 13 More detail is available in Appendices One and Two.

### **While no submissions suggested changes to the AISA itself, there are some further minor changes to the AISA**

- 14 While there have been no changes to the AISA from the public consultation process, internal feedback within MSD and feedback received from the Parliamentary Counsel Office has contributed to minor changes to the AISA. These changes remove unnecessary content and help to clarify the purpose of the AISA.
- 15 All these changes are minor, and do not affect the core policy and processes that were consulted with the public. For full transparency, we seek your approval of these changes.

### **Next steps**

- 16 Subject to your approval, the Minister for Social Development will be provided with the draft Cabinet paper, final AISA and Order in Council on 25 February 2019.
- 17 The final Cabinet paper and AISA will be presented to the Cabinet Legislation Committee on 19 March 2019, and then to Cabinet and the Executive Council on 25 March 2019. The Order in Council will come into effect 28 days after it is made on 22 April 2019.
- 18 Under this timeframe, the AISA will be in place before the start of the next winter period (1 May 2019).

## Appendix 1

### Breakdown of submissions

Submission type	Volume
Submissions that were supporting and relevant to the proposed changes	34
Submissions that were against and relevant to the proposed changes	4
Submissions that were not about the proposed changes and considered out of scope	24
Total Submissions	62

Examples of the submissions that were out of scope related to:

- difficulty contacting MSD either when going overseas or in general
- disagreeing with a MSD policy or procedure, for example:
  - wanting complete portability of NZ Super
  - questioning the need to suspend any payments for NZ Super clients at any time (including supplementary payments)
  - the fact that Disability Allowance should have its own considerations (as costs may continue when clients are overseas)
- concern with surveillance of New Zealand citizens
- questioning the policy basis for Winter Energy Payment.

The scope of the consultation conducted did not include changes to MSD policies or procedures. These submissions were considered out of scope, and did not form part of the consultation analysis for the AISA.

However, some out of scope submissions had valuable suggestions about how MSD could improve services, such as investigate how supplementary payments could be automatically resumed once back in the country. More detail on these suggestions and ways in which MSD could address them will be available in a comprehensive summary report which will be published on the MSD website in March 2019. This could involve considering feedback that is relevant to items on the current work programme.

File ref: A11101957

Author: s 9(2)(a), Lead Advisor Privacy and Information Sharing

Responsible manager: s 9(2)(a), Team Manager Information

## **Appendix 2**

*Actual submissions made during the public consultation.*

Appendix 2 has not been included in the Proactive Release of documents under section 9(2)(a) of the Official Information Act.