



12 JUN 2020

Dear [REDACTED]

On 4 May 2020, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following documents:

- Report – *Designing a wage supplement approach as a possible alternative to Minimum Wage Exemption permits*, dated 10 September 2018
- Aide-memoire – *Launch of the Disability Action Plan 2019-2023*, dated 8 November 2018
- Aide-memoire – *Meeting with Officials from Myanmar*, dated 5 December 2019
- The annual report from the Minister for Disability Issues to the House of Representatives on implementation of the New Zealand Disability Strategy entitled '*Towards a non-disabling New Zealand*', dated 11 December 2019

Please find copies of the following documents attached:

- Report – *Designing a wage supplement approach as a possible alternative to Minimum Wage Exemption permits*, dated 10 September 2018
- Aide-memoire – *Launch of the Disability Action Plan 2019-2023*, dated 8 November 2018
- Aide-memoire – *Meeting with Officials from Myanmar*, dated 5 December 2019.

*Designing a wage supplement approach as a possible alternative to Minimum Wage Exemption permits* provides advice on the detailed design for a wage supplement approach, which could support the removal of the Minimum Wage Exemption (MWE) scheme. It recommends that Ministers consult with the disability sector on the proposed approach and seeks agreement to draft a paper for Cabinet to come to an agreement to consult.

The work programme to replace MWE permits has progressed to some extent since *Designing a wage supplement approach as a possible alternative to Minimum Wage Exemption permits* was written in September 2018. More recent advice has been provided to Cabinet on this work programme. Cabinet has considered two further papers relating to the work to replace MWE permits:

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- One paper for the purpose of seeking Cabinet agreement to undertake public consultation on the MWE scheme was considered by Cabinet on 12 December 2018. This Cabinet paper, along with the associated Cabinet Minute and the Discussion Document for public consultation, is available on the Ministry's website: [www.msd.govt.nz/about-msd-and-our-work/newsroom/2019/wage-supplement-consultation-announced.html](http://www.msd.govt.nz/about-msd-and-our-work/newsroom/2019/wage-supplement-consultation-announced.html).
- Another paper was considered by Cabinet on 20 November 2019. The Cabinet paper and associated Cabinet Minutes were proactively released on the Ministry's website on 20 February 2019. These documents can be found here: [www.msd.govt.nz/about-msd-and-our-work/publications-resources/information-releases/approach-to-replace-minimum-wage-exemption-permits-report-back/index.html](http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/information-releases/approach-to-replace-minimum-wage-exemption-permits-report-back/index.html).

Please note that since *Designing a wage supplement approach as a possible alternative to Minimum Wage Exemption permits*, the Social Security Act 1964 has been rewritten. Section 66A no longer exists in the new Social Security Act 2018. Therefore, the Ministry is currently consulting which further work needs to be done regarding the proposed approach to income exemptions as outlined in margin numbers 40-46 of *Designing a wage supplement approach as a possible alternative to Minimum Wage Exemption permits*.

Please note that some information in *Designing a wage supplement approach as a possible alternative to Minimum Wage Exemption permits* is withheld under section 9(2)(f)(iv) of the Act as it is under active consideration. The release of this information is likely to prejudice the ability of government to consider advice and the wider public interest of effective government would not be served.

*Launch of the Disability Action Plan 2019-2023* provides the Minister for Disability Issues with information relating to the launch of the Disability Action Plan 2019-2023, where the Minister was a guest speaker. The document provides details about the plan and details about the launch event.

*Meeting with Officials from Myanmar* provides the Minister for Disability Issues with information to prepare her for a meeting with officials from Myanmar. It contains talking points for the Minister, and background information about the attendees from Myanmar and the situation for disabled people in Myanmar. It also mentions the Volunteer Service Overseas (VSO) programme that set up the visit.

The contact details of one individual in *Meeting with Officials from Myanmar* are withheld under section 9(2)(k) of the Act in order to reduce the possibility of staff being exposed to phishing and other scams. This is because information released under the Act may end up in the public domain, for example, on websites including the Ministry's own website.

In all of the documents provided, the names of some individuals are withheld under section 9(2)(a) of the Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

Your request for a separate copy of the annual report from the Minister for Disability Issues to the House of Representatives on implementation of the New Zealand

Disability Strategy entitled '*Towards a non-disabling New Zealand*', dated 11 December 2019 is refused under section 18(d) of the Act. As you were advised by the Office for Disability Issues via email on 8 May 2020, this document is publicly available online. For your convenience, please find the link here: [www.odi.govt.nz/assets/Uploads/ODI-Annual-Report-2019.pdf](http://www.odi.govt.nz/assets/Uploads/ODI-Annual-Report-2019.pdf).

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
- 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 and attachments on the Ministry of Social Development'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 regarding the release of *Designing a wage supplement approach as a possible alternative to Minimum Wage Exemption permits, Launch of the Disability Action Plan 2019-2023* and *Meeting with Officials from Myanmar* 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.

Yours sincerely



Julia Berman  
**General Manager**  
**Disability, Seniors and International Policy**

# Report

**Date:** 10 September 2018      **Security Level:** IN CONFIDENCE

**To:** Hon Carmel Sepuloni, Minister for Disability Issues and Social Development  
Hon Iain Lees-Galloway, Minister for Workplace Relations and Safety

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## **Designing a wage supplement approach as a possible alternative to Minimum Wage Exemption permits**

### **Purpose of the report**

- 1 This report provides advice on the detailed design for a wage supplement approach, which would support the removal of the Minimum Wage Exemption (MWE), and proposes how unintended impacts of the approach could be addressed. We recommend that you seek the agreement of Cabinet to consult with the disability sector on the proposed approach.

### **Executive summary**

- 2 You have previously agreed that policy work in relation to removing the MWE should focus solely on a wage supplement approach. A wage supplement approach would top up the wage rates of eligible disabled people to the minimum wage, for each hour they work. If implemented, a wage supplement approach would mean that the MWE could be repealed without loss of employment for any disabled person whose employer would otherwise choose not to employ the person on the minimum wage.
- 3 The wage supplement would be accessible by the same group that is able to access the MWE. The application process for a wage supplement would include a criteria check to ensure it is not being used to subsidise wage costs for a broader group than intended.
- 4 The rate of the wage supplement could be determined either through a wage assessment process or through an agreed generic rate of supplement. If a wage assessment process is favoured, we recommend the development of a government mandated tool for employers to use when assessing their disabled employees.
- 5 Most unintended impacts of paying a wage supplement can be addressed by ensuring that clients eligible for a wage supplement receive an income exemption under section 66A of the Social Security Act. This will ensure that social assistance is not abated by more than is gained through the supplement, which will in turn ensure payment of benefits to residential care providers are not affected, and that people eligible for a community services card do not lose this entitlement.
- 6 As income increases with a wage supplement, there may be increased financial obligations for people receiving it, such as higher KiwiSaver contributions, Student Loan repayments and repayment of debt to government, but this is not expected to leave any disabled person worse off financially.

7 It is possible that disabled people living in social housing may also be required to pay a higher Income Related Rent as their income increases. If this occurs it is likely to be justifiable and fair, and should not leave the disabled person worse off under a wage supplement than they were under the MWE.

8 s 9(2)(f)(iv)

9 In order to cost the wage supplement accurately, we will require data on eligible people's hourly wages, the hours they work, as well as their Social Welfare Number to link this data to social assistance received.

10 The Ministry of Social Development (MSD) has identified it could contract with employers of staff with wage supplements to implement the approach. MSD would pay the wage supplement to employers who would pass this on to staff with their wages. We could also require employers to take further steps, consistent with being a "good employer", to support their disabled employees with wage supplements to progress at work and into open employment, as and where possible. s 9(2)(f)(iv)

11 Before a decision is made to progress a wage supplement approach, we recommend consulting with key stakeholders in the disability sector. This will identify the level of support there may be for a wage supplement, including whether there is support to retain a wage assessment process or to move to a generic rate of supplement. It will also support us to obtain data to develop a more accurate costing for the approach. If you agree, we will develop a Cabinet paper seeking agreement to consult on the proposed wage supplement approach.

### Recommended actions

It is recommended that you:

	<i>Minister for Disability Issues</i>	<i>Minister for Workplace relations and safety</i>
1 <b>note</b> that this paper proposes a detailed design for a wage supplement approach	Noted	Noted
2 s 9(2)(f)(iv)	Noted	Noted
3 <b>agree</b> to preparatory work being undertaken to s 9(2)(f)(iv)	yes / no	yes / no
4 <b>note</b> that there are two possible approaches for designing a wage supplement: a wage assessment	Noted	Noted

process or a generic rate of supplement

5 **note** that we recommend you consult with the disability sector on the proposed wage supplement

Noted

Noted

6 **agree** that officials should develop a paper for you to take to Cabinet seeking approval to consult with the disability sector on the proposed wage supplement approach.

yes / no

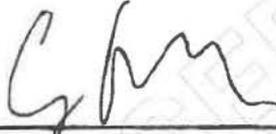
yes / no



James Poskitt  
General Manager, Community and Families  
Policy  
Ministry of Social Development

10-9-18

Date



s 9(2)(a)  
Manager, Employment Standards Policy  
Ministry of Business, Innovation and  
Employment

10/9/18

Date



Hon Carmel Sepuloni  
Minister for Disability Issues

16/9/18

Date

Hon Iain Lees-Galloway  
Minister for Workplace Relations and Safety

Date

## Background

- 12 Around 700 disabled people in New Zealand earn less than the minimum wage, under a provision in the Minimum Wage Act 1983. Employers can apply for a Minimum Wage Exemption (MWE) for an employee who is significantly and demonstrably limited by a disability in carrying out his or her work requirements. If granted, the employer is able to pay the employee with the MWE a proportion of the minimum wage based on an assessment of the worker's productivity and competencies, relative to those required by the job.
- 13 Approximately 93 percent of employees with a MWE work in Business Enterprise<sup>1</sup> settings, and most earn \$5 or less per hour of work. Most people with a MWE are reliant on income support payments, as they do not earn enough from their work to live on.
- 14 The MWE policy is discriminatory. You have identified you would like to remove the MWE, provided there are sufficient protections in place to ensure that disabled people are no worse off as a result of any change. This aligns with action 2b of the Disability Action Plan, which is focused on identifying alternatives to the MWE so it can be removed.
- 15 Based on advice we provided in April, You have agreed that policy work in relation to removing the MWE should focus solely on a wage supplement approach as the mechanism to ensure disabled people are not made worse off. You also agreed that officials should do further detailed work on a wage supplement approach and report back to you on the detailed design and how any unintended impacts could be addressed [REP/18/04/557 and MBIE briefing 2962 17-18 refers]. This briefing provides that report back.

## What would a wage supplement look like?

- 16 Under a wage supplement approach, employers would be required to pay all staff at least minimum wage. In return, employers would receive a wage supplement from the government to assist with some of the wage costs for eligible disabled employees.
- 17 Eligible disabled people's wage rates would be topped up by the Government to the minimum wage, for each hour they work. The wage supplement would be paid by government to the employer, who would pass the payment directly to the employee (in their wages).

## It would be accessible by the same group of disabled people that are eligible for the MWE

- 18 The proposed wage supplement would be accessible by the same group that is currently accessing the MWE, and those who would be eligible for it in the future. Eligibility criteria would include that:
  - employees must be demonstrably limited by a disability, even after the employer has made reasonable accommodations
  - the job needs to provide a real opportunity for the disabled person to contribute and use their abilities and skills (ie not created solely as a means of occupying the disabled person at a rate heavily subsidised by the government).

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<sup>1</sup> Organisations whose primary purpose is to provide employment opportunities to disabled people.

19 We also propose some additional criteria to further ensure that the wage supplement is not seen by employers as a means of subsidising their wage costs for disabled staff more generally, including that:

- the disabled person must be aged between 16<sup>2</sup>-64 years at the time of applying for the supplement<sup>3</sup>
- the disabled person must meet NZ residence requirements, in line with the requirements to receive a benefit and to be entitled to work in New Zealand
- the disabled person must not have been employed by the same employer at minimum wage or above previously, unless they became disabled by an accident after their employment, and their disability limits their ability to meet the requirements of their job (even after reasonable accommodations have been made).

20 The application process for a wage supplement will include a criteria check to ensure it is not being used to subsidise wage costs for a broader group than intended.

### **It could be supported by a new, Government-mandated wage assessment tool**

21 Under current legislation, employers can use any tool they choose to assess the wage rate for their employees. While Labour Inspectors are required to sign off that the process has been followed correctly, and the MWE wage rate is reasonable in the circumstances, anecdotal evidence suggests that the tools most commonly used by employers are those that produce the lowest wage rates.

22 Having a single, Government-mandated wage assessment tool that employers are required to use for wage supplement assessments would ensure greater consistency in wage rates across all wage supplement applications, than at present.

23 However, there is a risk that any tool that is developed could increase wage costs for employers, particularly those employers who may have been relying on wage assessment tools that produced very low wage rates. The development and transition to any new tool would need to be managed carefully with employers to ensure that it does not result in disabled people losing their jobs.

24 Maintaining a wage assessment tool would also have administrative costs for government. A government agency would need to continue to maintain oversight of the wage assessment process and ensure that employers use the tool correctly. The Labour Inspectorate currently has this role but considers that it is not well-equipped to perform this function, as it is outside the Inspectorate's core business of enforcing minimum employment standards set in legislation. The question of who *should* perform this function will likely depend on the assessment tool that is designed, but it is likely the role may need greater expertise in disability issues than the Labour Inspectorate has.

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<sup>2</sup> 16-19 year olds could be paid the starting out minimum wage rate for the first six months of work, at which point they would need to be paid at least the adult minimum wage, in line with existing legislation. As most young disabled people continue their schooling to age 21, we estimate there would be very few people who may be eligible for the starting out rate and a wage supplement.

<sup>3</sup> A wage supplement would continue to be paid at age 65 and beyond, providing that it was applied for and approved before the person turns 65. Currently the age of eligibility for NZ Superannuation is 65. When a client turns 65 and is on a main benefit, they move from that benefit to NZ Superannuation. As NZ Superannuation is not income or asset tested, there would be no return to government from the increased expenditure on a wage supplement once a person turns 65.

25 Developing a wage assessment tool would require specialist expertise, outside of MSD and the Ministry of Business, Innovation and Employment (MBIE). It would also require targeted consultation with employers using these tools to ensure that the tool that is developed is fit for purpose. Contracting the development of a wage assessment tool to outside of government may also alleviate potential concerns from employers that the tool is designed to produce wage rates in the Government's favour.<sup>4</sup>

26 s 9(2)(f)(iv) [REDACTED] The recent experience in Australia, where the High Court found that one of the wage assessment tools most commonly used in Australian Disability Enterprises discriminated against people with learning disabilities, has resulted in the Commonwealth Government investing significant resources to develop a new wage assessment tool. We would look to learn from the Australian experience in the development of a New Zealand tool, s 9(2)(f)(iv) [REDACTED]

27 s 9(2)(f)(iv) [REDACTED] Decisions on where the oversight function should sit could be made once the tool has been developed and it is clear what is required.

### **Or we could provide a generic wage supplement rate, based on the average wage paid under the MWE**

28 An alternative to a wage assessment process is to provide a generic wage supplement rate for all eligible people. A generic rate would be simpler to administer both for employers and for Government. It would also align better with our obligations under the United Nations Convention on the Rights of Persons with Disabilities, as the target group of disabled people would no longer be subject to a wage assessment process.

29 Conversely, a generic supplement rate could result in employers choosing to only employ more able disabled people, who would typically be paid at a higher rate under the MWE, at the expense of disabled people who require more assistance and may typically be paid at a lower rate under the MWE.

30 It may, however, be possible to try and limit the potential for employers to "cherry pick" more able disabled employees through specific contract requirements aligned to the payments of the wage supplement component to employers.

31 A further difficulty may be reaching agreement with employers on a fair generic rate to pay, which is affordable both for the Government and to meet the additional costs employers face when employing disabled staff. We already know that most people with a MWE earn less than \$5 per hour, so a generic rate might reasonably need to be around \$11.50 per hour.

32 The table in Appendix One sets out potential risks for a wage supplement approach under both a wage assessment model and a generic rate of supplement, and proposes mitigation strategies.

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<sup>4</sup> There has been concern expressed by some Business Enterprise providers that the work to remove the MWE intends to also make the Business Enterprise model unviable.

## **It would be designed to ensure that disabled people are no worse off financially**

*Most people will be better off under a well-designed wage supplement approach*

- 33 Most employees with a MWE permit rely on income from the Supported Living Payment, as the income they earn from working is not sufficient to live on. Under a wage supplement approach, it is possible that the increase in income from the wage supplement will result in the abatement of other financial assistance that the disabled person is receiving, and obligations to pay more income tax.
- 34 A key driver behind the work that identified a wage supplement as the approach most likely to achieve the desired aims, was that no disabled person should be worse off as a result of any changes. To ensure this, we tested how the payment of a wage supplement would interact with other social assistance and tax obligations, in order to determine if people would be better off under a wage supplement model. We used a sample of clients working in Business Enterprises to develop a number of scenarios to broadly represent the client group that currently have MWEs. We looked specifically at clients working in a Business Enterprise as these clients generally all have a MWE.
- 35 This revealed that most clients with a MWE are receiving a Supported Living Payment (SLP) at the single rate, around half receive an Accommodation Supplement (AS)<sup>5</sup> and around half receive a Disability Allowance (DA); although the rates of payment for DA were lower than average across all DA payments. Some clients had an income exemption for severe disablement, meaning that some or all of the income they earn with their MWE is not charged as income against their main benefit for abatement purposes. We did not find anyone receiving Temporary Additional Support (TAS), but we note that it could be possible. Based on this data, we developed the following scenarios to test:
- Person 1: Single, receives SLP only
  - Person 2: Single, receives SLP and AS
  - Person 3: Single, receives SLP, AS and DA
  - Person 4: Single, receives SLP and DA
  - Person 5: Married, receives SLP, AS and DA
- 36 We then applied an effective marginal tax rate (EMTR)<sup>6</sup> model to these scenarios to identify how the payment of a wage supplement would interact with the support received in each of the scenarios, from one through to forty hours worked per week, and across three wage points (\$1.50, \$6.00, and \$10.50 per hour). This identified the overall impact a wage supplement would have on the disabled person's entitlement to social assistance, and income tax obligations. For a comparison, we also tested how the impacts would change if the person had an income exemption<sup>7</sup>.
- 37 Across all scenarios, people would be better off under the wage supplement approach than they are under the current MWE approach. In some cases the person's benefit would be fully abated and their entitlement to supplementary assistance partially or fully abated, but the additional income from the wage supplement would offset this

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<sup>5</sup> Reasons why some MWE clients may not be getting AS include living at home and not having accommodation costs, or living in residential care and receiving Residential Support Subsidy.

<sup>6</sup> EMTR models determine the combined effect on overall earnings by working out for each additional dollar earned, how much would be paid in income tax and how much would be deducted from social welfare entitlements

<sup>7</sup> For this we assumed a full income exemption for the assessed MWE rate only – the wage supplement rate was counted as income

and mean that the person would be better off overall. If the person has an income exemption for severe disablement, they would be better off again, as the increased income they earned from working would not abate their entitlement to a main benefit (eg SLP), AS, DA or TAS.

- 38 We also worked with Inland Revenue to check that the payment of a wage supplement would not leave any disabled person worse off for any social assistance it administers, and confirmed that the payment of a wage supplement would more than offset the impact of paying more income tax, even in conjunction with any abatement to social assistance. The only impact to GST should be through increased spending when people earn more, meaning greater GST returns to Government.

*But in rare circumstances, a person may lose more income than they gain but this could be prevented through income exemptions under s66A of the Social Security Act*

- 39 Because the scenarios did not create any financial 'losers', we created a further fictional scenario, based on uncommon (but not entirely impossible) characteristics for the group of disabled people that a wage supplement would be targeted to. Unlike the other scenarios, the client in the 'losing' scenario had extremely high disability costs, over and above the maximum amount covered by DA<sup>8</sup>. As a result, they were receiving TAS to top up the additional expense not able to be met by DA. They were also already receiving a comparatively high wage of \$12 per hour<sup>9</sup> and did not have an income exemption for severe disablement.
- 40 This combination of a high payment of TAS, along with a comparatively high hourly pay rate and no income exemption, means that clients in this situation could be worse off financially, depending on the number of hours they work. This is because TAS is reduced by a dollar for every dollar of additional income this client receives.
- 41 We estimate that the likelihood of a person losing income through a wage supplement approach is very low. This is because the characteristics required are uncommon in the target group for the wage supplement, and the total group of people likely to be accessing a wage supplement is also small, at around 700 people nationwide. That said, it would be possible to ensure no person is made worse off financially if all people eligible for a wage supplement are also considered eligible for an income exemption under section 66A of the Social Security Act.
- 42 Under section 66A, as an incentive for the personal effort of a severely disabled person to participate or continue in employment, discretion can be used to disregard all or part of any income earned from employment as chargeable income for benefit purposes.
- 43 The proposed criteria for a wage supplement – that an employee be demonstrably limited by a disability, even after the employer has made reasonable accommodations – aligns well with the criteria for an income exemption under section 66A of the Social Security Act which requires that the person is severely disabled. Guidelines for determining severe disablement include:
- Does the client have to put in more effort in order to participate in employment?
  - Is the client's capacity to earn the same wage as a person without a severe disability reduced because of their disability?
  - Does the client have additional expenses to undertake employment?

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<sup>8</sup> Only around half of the clients we looked at claimed DA, and most claimed this at a very low rate compared to the average, and much less than the maximum

<sup>9</sup> Most people on MWEs earn \$5 or less per hour.

- Does the client have difficulties participating in employment or completing their tasks because of their disability?
  - Does the client require assistance from another person to carry out some of their daily tasks?
  - Does the client require the assistance from another person to travel to work or to ensure their physical safety while at work?
  - Any other relevant factors that should be considered.
- 44 Most clients who would be eligible for a wage supplement would likely meet several of the criteria above, so should already be considered for an income exemption.
- 45 The amount of the income exemption would be determined by the client's case manager. In general, income exemptions under section 66A depend on the client's individual circumstances, but advice for case managers is that it should be a reasonable amount to ensure that a severely disabled person is not disadvantaged by participating or continuing in employment.

### **Other potential implications can also be managed**

*Implications for people who are living in residential care can also be prevented by an income exemption*

- 46 We are aware that some clients working in business enterprises, with MWEs, are living in residential care and are therefore likely to be receiving Residential Support Subsidy (RSS).
- 47 When a client is in residential care, they are required to contribute any main benefit they receive (less a Personal Allowance) to the service provider towards the cost of their care. This is usually done by redirection of benefit; however the client may choose to make their own arrangements to pay the service provider.
- 48 If a client receiving RSS has authorised the redirection of their benefit payment to the residential service provider, the amount paid to the residential service provider would be affected if the rate of benefit is reduced due to income abatement. This would mean that the client may need to pay the outstanding balance direct to the provider. However, this too could be prevented if clients have an income exemption which means that their main benefit is not abated as a result of earned income. Advice could be provided to case managers to disregard all income for clients who are living in residential care. This would mean that their rate of main benefit would not be impacted. At present there are approximately 260 disabled people living in residential care and working in Business Enterprises which this may apply to.

*Eligibility for a Community Services Card will not be affected as long as clients continue to receive a main benefit*

- 49 Clients receiving a main benefit, including SLP are automatically entitled to a Community Services Card (CSC).
- 50 If clients who are eligible for a wage supplement have an income exemption as recommended in para 42, it will mean that income is not counted in the income testing of their main benefit, and accordingly they will remain eligible for a CSC.
- 51 The CSC can be particularly helpful for disabled clients as it can assist with the costs of health care services and prescriptions.

*There may be implications for KiwiSaver contributions and other financial obligations, but overall people should remain better off*

- 52 When additional income is earned, it can have implications for KiwiSaver contributions, Student Loan repayments, Child Support payments and debt repayment to government agencies.

- 53 KiwiSaver is the most likely financial obligation to impact on the group of disabled people who would be eligible for a wage supplement. Any increase in contributions would be a proportion of the increase in income only (either 3, 4 or 8 percent, depending on the contribution the disabled person has selected). In conjunction with an income exemption to prevent other assistance from abating, the impact of increased KiwiSaver contributions should not leave anyone worse off financially. Further, it is possible for people to apply for a contributions holiday, which would suspend contributions for a time, or if they are newly employed, for a person to opt out of the KiwiSaver scheme entirely.
- 54 It is highly unlikely that people accessing a wage supplement will have Student Loan obligations. However, we estimate that if they do, the additional income earned will more than offset the additional Student Loan repayments required, even taking into account additional income tax and KiwiSaver obligations. Example calculations are detailed in Appendix Two.
- 55 We know that more than 90 percent of SLP clients<sup>10</sup> do not have dependent children. Given that the group of disabled people who would be eligible for a wage supplement will have high care needs themselves, we think it is unlikely they will have dependent children they are providing for financially. We therefore do not anticipate any negative financial impacts arising as a result of increased child support payments when a wage supplement is paid.
- 56 Lastly, debt repayment obligations to government may increase along with income, but should not have a negative impact on anyone's overall financial position.

*An income exemption would increase overall income which may impact on eligibility for social housing and Income Related Rent*

- 57 We do not know how many people who would be eligible for a wage supplement may be living in social housing. However, we know that around half of eligible clients are receiving AS, so we can exclude them, as AS is not payable for people living in social housing. This leaves around 350 clients. Many of these 350 clients will live at home with family/whanau. We also know approximately 260 are living in residential care. On this basis, we think the number of people who may be living in social housing is likely to be small.
- 58 All income is taken into account when determining Income Related Rent. This means that the suggested income exemption would have the impact of increasing overall income, and may mean a client is required to pay a higher rent based on that level of income. However, given that the public housing criteria apply to everyone, it may be appropriate and fair to increase the rate of Income Related Rent for any disabled person whose income increases.
- 59 No person should be made ineligible for a social house through a wage supplement approach, as even with a supplement, their income should remain below the threshold for eligibility. Case managers will also take into account impact on social housing when determining how much income to exempt under s66A.

*The 15 hour rule would not apply to people with a wage supplement*

- 60 We know that many clients with MWEs work more than 15 hours per week. They are able to do this without it affecting their eligibility for SLP as the work is not considered to be in open employment because it is not paid at minimum wage. Payment of a wage supplement would be subject to requirements that are akin to the conditions of a MWE, so these clients would continue to be able to work in excess of 15 hours under a wage supplement approach and retain their eligibility for SLP. Eligibility would only be affected if the client was paid minimum wage in their own right, without a wage supplement.

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<sup>10</sup> This refers to SLP clients receiving it for a health condition or disability. It does not include SLP carer clients.

## How would a wage supplement be implemented?

59(2)(f)(iv)

61 s 9(2)(f)(iv)

62 To accurately cost the wage supplement, we would require data on eligible people's hourly wages and the hours they work, as well as their Social Welfare Number (SWN) so we could determine both the gross and net costs of the wage supplement for government. This data could be used to determine costs of a wage assessment model, and a generic supplement rate (which would only require hours worked and an estimate of potential rates). It would be possible to obtain this information from Business Enterprises, which account for around 93 percent of all disabled people who would be eligible for a wage supplement. We have not requested the data from Business Enterprise providers at this stage, for two reasons:

- No decisions or announcements have been made with regard to a wage supplement approach. Requesting this data at this time may create considerable and unnecessary anxiety among contracted Business Enterprise providers with respect to what may change.
- Current wage rate data may not accurately reflect the true cost under a wage supplement approach that uses a Government-mandated wage assessment tool, as the tool may result in employers meeting a higher proportion of wage costs than at present.

63 s 9(2)(f)(iv)

64

### **MSD could contract with employers to pass on the wage supplement**

65 Around 93 percent of people with a MWE work in a Business Enterprise. We expect that under a wage supplement approach the percentage of eligible people working in

11 s 9(2)(f)(iv)

<sup>12</sup> Note the proposed income exemption may not be for the client's full earned income, so some abatement to social assistance may still occur. If a full income exemption is granted then it would mean no abatement to social assistance payments.

a Business Enterprise would be similar. MSD already has contract relationships with Business Enterprise providers, as the primary government funder of these services. It would be possible for MSD to create separate, new contracts with these providers for the purpose of paying a wage supplement. It would also be possible for MSD to create new contract relationships with other employers of staff on wage supplements where there is not an existing contractual relationship.

- 66 Payment of the wage supplement would be made to the employer in arrears, once it is known how many hours each disabled person with a wage supplement has worked. It would be up to employers to provide this information to MSD for each of their employees with a wage supplement, rather than expecting each disabled person to notify the Ministry individually. To support employers to be able to provide flexible working arrangements, this could be done on a monthly basis. While it is likely that employers will be paying staff on a weekly or fortnightly basis, the administrative burden of filing this information more regularly would not be feasible.

*The employees would be protected by the legislated minimum employment standards, and MSD could require further "good employer" standards to be met through Business Enterprise contracts*

- 67 By creating a wage supplement, and removing the MWE, disabled employees will benefit from all the same rights as other employees in the labour market, including the right to earn no less than the minimum wage.<sup>13</sup>
- 68 The Labour Inspectorate is the regulator responsible for enforcing minimum employment standards and as such would have an ongoing role regardless of how the wage supplement is implemented. The Inspectorate would, however, have an operational decision to make in terms of whether to proactively assess compliance among employers of staff with a wage supplement, or just respond to complaints if/when they arise.
- 69 In addition, as well as paying a wage supplement, MSD's contracts with Business Enterprises could require certain other employment conditions, over and above the minimum legislated requirements that are in place for all employees. This would create an incentive for Business Enterprises to support employees to develop further skills and move into open employment, as payment of the vocational support contract could be tied to the Business Enterprise demonstrating compliance. We have not proposed additional conditions be tied to the contracts for wage supplements, as if the MWE is removed, Business Enterprises would likely be dependent on the Wage Supplement payment for viability. Possible additional standards may include:
- the Business Enterprise must demonstrate they have worked with each employee to create a personal development plan to assist them to progress in the job, as appropriate to their abilities and work aspirations
  - the Business Enterprise must agree to review the disabled person's progress annually
  - the number of wage supplements in place in each Business Enterprise must fit within the existing funded contract capacity (ie if contract capacity is a maximum of 210, that Business Enterprise could have no more than 210 wage supplement agreements, but they could have fewer than 210 if not all staff have a wage supplement or if they are not at capacity)
  - a requirement to demonstrate plans to support a small percentage of staff with wage supplements (2-5 percent) into open employment conditions each year,<sup>14</sup> and to provide evidence of whether they were successful in achieving this. Other

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<sup>13</sup> Currently employers must provide disabled employees with all employment rights, but can be exempt from paying minimum wage if the disabled employee has a MWE permit.

<sup>14</sup> This could be either in their own organisation or with another employer in the open labour market

employers, outside of Business Enterprises, with only one or two staff with a wage supplement could also be encouraged to do this, perhaps over a longer timeframe.

- 70 Business Enterprises would likely seek additional financial compensation for complying with the additional "good employer" conditions. This could be confirmed through consultation with Business Enterprises.

### Next steps

- 71 There is considerable interest from the disability support sector in the work to identify alternatives to the MWE. Several Business Enterprise providers in particular have expressed an interest in being a part of this work as it progresses further. We consider that it would be appropriate to consult with the disability sector, including disabled people, families and whānau, employers of disabled people on MWEs, and unions, on the proposed wage supplement approach and how it could operate in practice. In particular, we could test through a consultation process whether there is support to retain a wage assessment process or to move to a generic rate of supplement. We can also test the level of likely commitment to potential good employer requirements, which may have some cost implications for Business Enterprises.
- 72 Identifying the level of public support for a change to a wage supplement approach will assist in making decisions on progressing the approach and accurately costing this out. <sup>s 9(2)(f)(iv)</sup>
- 73 A consultation process would require Cabinet agreement. If you agree that we should consult with key stakeholders in the disability sector, we will prepare a Cabinet paper seeking agreement to do this.
- 74 The introduction of a wage supplement would enable the MWE to be repealed. Further advice on this will be prepared if and when it is agreed to introduce a wage supplement.

File ref: A1355626

MBIE briefing 0919 18-19

Authors: (<sup>s 9(2)(a)</sup> Senior Policy Analyst, Community and Families Policy, Ministry of Social Development and <sup>s 9(2)(a)</sup> Senior Policy Advisor, Employment Standards Policy Team, Ministry of Business, Innovation and Employment)

Responsible managers: (<sup>s 9(2)(a)</sup> Policy Manager, Community and Families Policy, Ministry of Social Development, and <sup>s 9(2)(a)</sup> Manager, Employment Standards Policy, Ministry of Business, Innovation and Employment)

## Appendix One: Risks and mitigations for the approach

Potential risk	Proposed mitigation
s 9(2)(f)(iv)	<p>s 9(2)(f)(iv)</p> <ul style="list-style-type: none"> <li>• Under a generic rate approach, employers would no longer need to undertake wage assessments, which may reduce compliance costs.</li> <li>• We could work with employers over time as they transition to providing the additional “good employer obligations” proposed for contracts, assuming they are not already doing these.</li> </ul>
Increased compliance costs for employers result in employers no longer employing disabled employees	<ul style="list-style-type: none"> <li>• If disabled people lose existing jobs in favour of non-disabled people, this may engage the anti-discrimination provisions in the Human Rights Act and the Employment Relations Act (depending on the circumstances).</li> </ul>
Providers may “cherry pick” disabled employees they perceive to be more productive under a generic rate wage supplement	<ul style="list-style-type: none"> <li>• Proposed contract requirements to move a proportion of disabled employees into open employment may help to address this.</li> <li>• Existing employees will be protected, to some extent, by unjustified dismissal provisions in employment law.</li> </ul>
The cost of the supplement may be seen as prohibitive, or unaffordable with future increases to the Minimum Wage	<ul style="list-style-type: none"> <li>• Over time the proposal is expected to move more disabled people into employment, including open employment. Numbers are generally small, and we will look at what other support we can provide to support disabled people into employment generally.</li> </ul>
Business Enterprise employers may see the increased compliance obligations as a ploy by government to remove the Business Enterprise model	<ul style="list-style-type: none"> <li>• Clear communication will be required through the consultation process and afterwards to assure Business Enterprise providers this is not the case.</li> </ul>
Financial risk for employers of needing to pay wages to staff in advance of receiving the wage supplement from government	<ul style="list-style-type: none"> <li>• This is a bigger risk for Business Enterprises, who will have many staff to pay. We think it can be offset by paying the wage supplement to employers on a monthly basis. Further, Business Enterprises receive other funding from MSD in advance, so they should have sufficient funding in their accounts to meet wage costs in</li> </ul>

	advance.
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## Appendix Two: Example calculations

- 75 The example below illustrates the impact of the proposed wage supplement on overall income. It uses a person working 40 hours per week, as this will have the biggest impact on income, and thus the biggest impact on financial obligations.

Example 1. Person working 40 hours per week, at \$5 per hour with full income exemption and receiving single rate of SLP, 18 years+

- Gross weekly income is \$303.40 from SLP and \$200 from working (total 503.40)
  - PAYE deduction is \$76.24
  - Student Loan repayment is \$15.48
  - KiwiSaver contribution (3%) is \$15.10
  - Total deductions (\$105.82)
- Net income after deductions is \$426.58 per week

Under a wage supplement this person would earn \$16.50 per hour. If we continue to assume a full income exemption, the impact would be:

- Gross weekly income is \$303.40 from SLP and \$660 from work (total \$963.40)
  - PAYE deduction is \$168.17
  - Student Loan repayment is \$70.68
  - KiwiSaver contribution (3%) is \$28.90
  - Total deductions (\$267.75)
- Net income after deductions is \$695.65

The net benefit of this person receiving a wage supplement is \$269.07 per week, after paying income tax, Student Loan repayments and KiwiSaver contributions. If the person did not have a Student Loan to repay, the net benefit would be higher again.

# Aide-mémoire

## Meeting

**Date:** 8 November 2019      **Security Level:** IN CONFIDENCE

**For:** Hon Carmel Sepuloni, Minister for Disability Issues

**File Reference:** REP/19/11/1104, A1213787

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## Launch of the Disability Action Plan 2019-2023

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**Meeting/visit details**      9.00am-10.00am, 14 November 2019, The Public Trust Hall, 131 Lambton Quay.

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**Expected attendees**

- Robert Martin<sup>1</sup>, Committee Member, United Nations Committee for Persons with Disabilities
- s 9(2)(a), Robert Martin's Support Person
- Disabled People's Organisation (DPO) Coalition representatives from:
  - Association of Blind Citizens New Zealand
  - Balance Aotearoa
  - Deaf Aotearoa
  - Disabled Persons Assembly New Zealand
  - Kapo Maori Aotearoa
  - People First
  - Muscular Dystrophy Association of New Zealand Inc
- Disabled community and representatives

Your office will be inviting Media.

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**Invited Attendees**

- Members of Parliament
- Government Chief Executives and officials

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**Purpose of event**      This public event is an opportunity for you to:

- launch the Disability Action Plan 2019-2023 (the new Action Plan), alongside members of the DPO Coalition and Robert Martin
- acknowledge and thank those involved in developing the new Action Plan

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<sup>1</sup> Robert Martin is the first person with a learning disability to serve at the United Nations

- 
- acknowledge that the voices of the disability community “will make a difference for disabled people today and in the future”.

There will be three speakers:

- You
- A DPO Coalition representative
- Robert Martin.

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**Talking Points**

Attached to this aide memoire are the following:

- a speech
- a press release
- questions and answer sheet
- a run sheet for the launch event.

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**Key Issues****The Disability Action Plan 2019-2023**

The new Action Plan is closely aligned to the New Zealand Disability Strategy 2016-2026 (the Disability Strategy) and aims to deliver the eight outcomes of the Disability Strategy. The outcomes of the Disability Strategy are:

- education
- employment and economic security
- health and wellbeing
- rights, protection and justice
- accessibility
- attitudes
- choice and control
- leadership.

The new Action Plan has been designed to bring together a package of 25 cross-government work programmes that are underway or are being planned and that have an explicitly disability perspective rather than being ‘business as usual’. It is, therefore, not a conventional action plan consisting of a series of work areas followed by a list of actions.

Most work programmes will be implemented within agency baselines, but some may require agencies to develop budget bids to secure additional or new funding.

The new Action Plan includes several monitoring mechanisms to ensure agencies are held to account, including (but not limited to):

- submission of six-monthly status reports to ODI
- biannual meetings of the Ministerial Leadership Group on Disability Issues
- DPO Coalition meetings with agencies, as required.

The new Action Plan will be available in alternative and accessible formats at the launch event and afterwards.

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**Proactive release of the Cabinet Paper *the Disability Action 2019-2023***

The Cabinet Paper that sought Cabinet's agreement to the new Action Plan will be proactively released on Tuesday 12 November.

We expect this proactive release will occur without any issues and will be published on the Office for Disability Issues website.

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**Risks and issues**

**Guests invited to the launch event**

We have invited approximately 200 guests to attend the public launch event. We are anticipating that approximately 100 people will attend. However, there is a risk that numbers could be higher or lower than anticipated.

Some guests may want to ask you questions. The agenda does not include a section for audience questions, however we have provided your office with a draft list of questions and answers for your use, should you need them. Brian Coffey, Director, ODI (currently on leave) and Jacinda Keith, Acting Director, ODI will also be on hand to answer any questions if required.

**Media**

Media will be present and mingling at the event. While we cannot control what guests say, the new Action Plan has been co-designed by disabled people, their whānau and families and officials from government agencies. This co-design process ensures that the priorities in the new Action Plan are priorities for disabled people too.

Your office is leading media engagement.

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Author: s9(2 a) [REDACTED], Senior Advisor, Office for Disability Issues

Responsible manager: Jacinda Keith, Acting Director, Office for Disability Issues

# Aide-mémoire

## Meeting

**Date:** 5 December 2019      **Security Level:** IN CONFIDENCE

**For:** Hon Carmel Sepuloni, Minister for Social Development

**File Reference:** A12174670 REP/19/11/1237

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## Meeting with Officials from Myanmar

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**Meeting/visit details**      3:30-4:00pm, Tuesday 10 December 2019, 5.1R EW The Beehive

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**Expected attendees**

- Dr Win Myat Aye, Union Minister for Social Welfare, Relief and Resettlement, Myanmar.
- Mr Swan Yi Ya, Director of the Department of Rehabilitation, Myanmar.
- Mr Min Yar Oo, Deputy Director of the Minister's Office, Ministry of Social Welfare, Resettlement and Rehabilitation, Myanmar.
- Mr Seng Hpung Aung, Programme Manager, Volunteer Service Overseas (VSO).
- s 9(2)(a) [redacted], VSO Volunteer. s 9(2)(k) [redacted]
- Brian Coffey, Director Office for Disability Issues.

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**Purpose of meeting/visit**      Minister Aye and other officials from Myanmar wish to strengthen their disability knowledge and capacity to support their implementation of the UNCRPD through strategy, policies and services.

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**Talking Points**

- Thank you for coming to visit to hear and learn about what we as a country are doing to implement the Convention of the Rights of Persons with Disabilities.
- I hope that you are enjoying your time here in Wellington.
- It is great to see that you are meeting with the Disability Rights Commissioner here and with the Disabled People's Organisations Coalition. I work very closely with these representatives to ensure that New Zealand meets our responsibilities under the Convention.
- I am interested to hear what steps your country has made so far towards this since signing and ratifying the Convention in 2011.

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- I am also interested in hearing what international support is being provided to help with your capacity to implement the Convention.
  - A source of pride for New Zealand is our own Robert Martin who was involved in negotiating for Convention and is currently on the UN Committee for the Rights of Persons with Disabilities and we hope will be re-elected next year.
  - I understand that you have already met with the Office for Disability Issues and they have talked to you about the Disability Strategy 2016-2026 and the Disability Action Plan 2019-2023. These documents are key ways that we are implementing the Convention.
  - Both key documents are created through a co-design process through consultation with the disability community in New Zealand.
  - I am happy to answer any further questions you have about them or anything else you would like to know about how we implement the Convention.

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## **Background**

### **Study Visit**

- His Excellency Dr Win Myat Aye is the Union Minister for Social Welfare, Relief and Resettlement in Myanmar and a practicing paediatrician.
- Minister Aye and accompanying officials will be arriving in New Zealand on Sunday 8<sup>th</sup> December and leaving on Friday 13 December.
- They have many meetings booked including a meeting with Minister Peters in his role as the Minister for Foreign Affairs. The programme schedule is attached to this aide-memoire.
- The Ministry of Foreign Affairs and Trade (MFAT) are supportive of this visit and are especially looking for opportunities for women, children, youth and disabled people to benefit from New Zealand aid.
- The visit is supported and funded by VSO Myanmar to assist with developing best practice to support the disabled population.
- The objectives of the visit outlined by VSO Myanmar are to:
  - understand approaches for disability systems, strategy and policy
  - learn about the support and social protection available for disabled people. Particularly Māori, older people and children
  - learn about initiatives to support disabled people's involvement in sport and recreation
  - identify assistive devices and technology to support the inclusion of disabled people and the approach to funding and provision of these devices and technology
  - learn about approaches and initiatives to ensure accessibility of the built environment and information and technology

- 
- identify useful knowledge quality standards, monitoring visits and quality improvement plans that could be applied within Myanmar
  - learn more about the barriers to access to justice faced by disabled people and ways to overcome these barriers
  - identify approaches and supports to help disabled people find and stay in work.

### **Myanmar**

- Myanmar signed and ratified the UNCRPD on 7 December 2011. They have not signed and ratified the Optional Protocol of the Convention.
- The country is currently ruled by the National League for Democracy (NLD) under de facto leader Aung San Suu Kyi.
- It is one of the least developed countries in the Association of South East Asian Nations (ASEAN) and has recently emerged from five decades of economic and political isolation.

### **Volunteer Service Overseas (VSO)**

- VSO is a non-profit international development organisation with a vision to fight poverty and marginalisation through volunteers around the world.
- VSO was set up in 1958 by sending volunteers to teach English in Borneo.
- In 2018, VSO celebrated its 60<sup>th</sup> anniversary and had by then engaged over 76,000 volunteers to work on development programmes in over 120 countries.
- VSO today engages in activities including the delivery of integrated large-scale education, health and livelihood programmes around the world. It also supports communities and governments to inform and influence policy.

### **Risks and Opportunities**

- Human Rights Watch recently released an extensive report on human rights issues in Myanmar.
- This meeting is an opportunity to influence on best practice to support the disabled population of Myanmar.
- It is also an opportunity to support Myanmar to implement the UNCRPD, to talk about your support for Robert Martin's re-election to the UN Committee on the Rights of Persons with Disabilities and discuss the new Disability Action Plan 2019-2023.

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Author: s 9(2)(a) , Advisor, Office for Disability Issues

Responsible manager: Brian Coffey, Director, Office for Disability Issues