

Audit Programme for COVID-19 Payments

Audit Sheet




TYPE OF AUDIT: <i>Random / Target / Allegation</i>	
PROGRAMME NAME	
CLAIM NUMBER: <i>(list for all claims, claim number, approval status i.e approved, closed, declined & number of employees claimed for)</i>	(Claim No.) (Status) (No. of Employees)
IR NUMBER: <i>(Employer + Employee)</i>	Employer: Employee:
NAME: <i>(Employer + Employee)</i>	Employer: Employee:
NZ BUSINESS NUMBER	
CLAIM AMOUNT: (all claims)	(Claim No.) – (\$ paid)
DATE	
AUDITOR	
DESK BASED REVIEW	
<ul style="list-style-type: none"> • Conduct relevant checks as outlined in Desk File and attached guidelines for the type of audit you are completing • Note in full the outcomes of this and any other relevant information below 	

CONTACT

- Follow the guideline for the audit you are doing regarding contacting other parties (other parties may include IR, Employer, Employees, Sole Trader etc) and record fully your attempts to contact and your discussion with them. Date and time of all discussions to be recorded.

DECISION / FINDINGS

- Fully document your findings and the decisions you have made in this audit

WAGE SUBSIDY OUTCOME (For reporting purposes)	COMMENTS
WAGE SUBSIDY REQUIREMENTS <u>MET</u>:	 <i>(click & drag circle)</i> YES / NO
OR RESOLVED:	<i>(e.g. email sent to T/O to adjust benefit, client referred to MyMSD, repayment process initiated)</i>  <i>(click & drag circle)</i> YES / NO
REFERRED TO INVESTIGATION TRIAGE:	 <i>(click & drag circle)</i> YES / NO
UNABLE TO CONTACT:	<i>(outline below)</i>
FOLLOW UP ACTION REQUIRED:	<i>(outline below)</i>

NEXT STEPS	COMMENTS
NFA	
REPAYMENT REQUIRED: <ul style="list-style-type: none"> Request Repayment via S2P 	Reason:
MSD INVESTIGATION REQUIRED: <ul style="list-style-type: none"> Outline reason (e.g client was working longer than 2 weeks prior to lockdown and income needs to be verified and benefit reviewed) 	Reason:
OTHER AGENCY INVESTIGATION REQUIRED: <ul style="list-style-type: none"> Outline reason 	Name of Agency: Reason:
FACE: <ul style="list-style-type: none"> Immediate action required – refer to T/O for benefit review Refer MyMSD or 0800 line for other benefit entitlement queries 	Date Sent: Email sent to s9(2)(a) OIA Client Name: Client SWN: EES Application Number: <u>Benefit Adjustment Required:</u> <u>Reason for Benefit Adjustment</u>
DATA INTEGRITY FIX REQUIRED	Outline fix required and why:

OTHER	
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ASSOCIATED APPLICATION/S REQUIRING FOLLOW-UP	
Claim ID: 00000 (Status)	Outline follow-up required:

COVID-19 Target Audit

1 - Employee on Benefit

Step	Activity	Potential Outcomes
Download e-Sieve report	Review MSD information	
Review EES	Review Application for Wage Subsidy	
Desk Based Review	Refer Desk File <ul style="list-style-type: none"> • Open Source check • qualify, 30% drop in revenue • mitigation • any employees • type of subsidy applied for i.e part time / full time / for whom 	A review of this information may indicate whether the likely issue is with a wage subsidy or a benefit. This will assist you in your conversation with the employer (sole trader)
Contact employer (1)	General conversation with employer – <ul style="list-style-type: none"> • qualifications • were staff aware of application • how were they made aware? • What were employees paid? <ul style="list-style-type: none"> ◦ Normal wages / salary / 80% / wage subsidy • How were employees paid? <ul style="list-style-type: none"> ◦ Lump sum / weekly / fortnightly etc • Any changes to staff since application paid? 	Gain a full understanding of number of staff, how they were paid and what the employee you are going to contact, should have been advised by their employer. This will assist you to have a full discussion with the employee
Contact employee	Contact details for employee should be held with MSD systems. <ul style="list-style-type: none"> • Ask IR for employee contact details- only if cannot be contacted – Refer s9(2)(a) OIA who will deal with IR. • Discuss Wage Subsidy – were they aware it being applied for, has it been passed on, what are they being paid? – how are they being paid? • What date did they start work? • Full time/ part time / casual • Benefit obligations <p>Employment – less than 2 weeks prior to COVID 19 lockdown</p> <ul style="list-style-type: none"> • We will check this with your employer – are you okay with this – <u>N.B you must have the employee's consent to</u> 	<p>Less than 2 weeks prior to COVID-19 lockdown</p> <ul style="list-style-type: none"> • Start date under 2 weeks, cancel from start date, • Charge earnings from employment start date, and then charge wage subsidy from date of wage subsidy application for 12 weeks. • assess FACE entitlement (non-beneficiary assistance) <p>States they have not received wage subsidy</p> <ul style="list-style-type: none"> • Employer to be spoken to clarify what paid to the employee • Wage subsidy to be reviewed? • Charge amount Employer confirms as income.

	<p><u>specifically discuss their employment details with the employer</u></p> <ul style="list-style-type: none"> Obtain written confirmation (email or PD) to transfer to non-beneficiary assistance <p>Is not receiving at least full time Wage Subsidy</p> <p>We will check with your employer – are you okay with this?</p>	<ul style="list-style-type: none"> Consider referral to MBIE if Wage Subsidy not being passed on?
Contact employer (2) (only if client consents)	<p>Confirm employee start date, income (if 2 weeks or less), full time (30 hours plus), or part time</p> <p>Confirm wage subsidy passed on (can they verify)</p>	<ul style="list-style-type: none"> Less than 2 weeks prior to lockdown i.e 11 – 12 March 2020 or later, adjust benefit from FAD and establish overpayment More than 2 weeks prior to lockdown, adjust from FAD and refer for investigation (Programme – COVID-19 Working Payroll). Email Fraud Allegation email address with heading: TO Desk Based Review Assess FACE entitlement (non-beneficiary assistance)
Final Steps	<ul style="list-style-type: none"> Explain outcome to employee Finalise and outcome audit sheet/s Benefit reviewed if required Complete portal audit form Add comment to EES Application '<i>Integrity Audit – (name of auditor)</i>' <p>If the audit has resulted in a wage subsidy issue for the employer, a separate audit sheet and portal entry will need to be completed for the employer as well.</p>	<ul style="list-style-type: none"> Audit is complete

COVID-19 Target Audit

2 - Employer (Sole Trader) on Benefit

Step	Activity	Potential Outcomes
Download e-Sieve report	Review MSD information	
Review EES	Review Application for Wage Subsidy	
IR Information	<p>IMPORTANT</p> <p>You cannot share information that is not related to the COVID19 wage subsidy application</p> <p>You cannot give information regarding a client's benefit</p> <p>You cannot ask for anything other than information relating to the wage subsidy</p> <p>Email IR on the approved template provided by IR as follows:</p> <ul style="list-style-type: none"> • Name – <i>Individual or entity</i> • DOB or start date • Other identifying information – <i>application ID number</i> • Reason Request – <i>Information is required to ensure compliance with the Ministry of Social Development MOU – (here we need you to confirm that the request is in relation to processing / reviewing a claim made in association with Covid19 subsidy)</i> • Information required – <i>Information required:</i> <ul style="list-style-type: none"> ◦ <i>is the business registered?</i> ◦ <i>were they GST registered?</i> ◦ <i>were they trading pre COVID19?</i> ◦ <i>was the business filing returns?</i> ◦ <i>was the employer paying an employee prior to the pandemic?</i> ◦ <i>if so, what was being paid to the employee?</i> <p>(this information is required to confirm that this is a legitimate business operating prior to COVID19)</p> <ul style="list-style-type: none"> • Period of Interest – <i>time period or date range of information required:</i> <ul style="list-style-type: none"> ◦ <i>The POI is the period relevant to the wage subsidy application</i> • I confirm that I have read and signed the IR820 (Certificate of Confidentiality) – yes 	<p>This information will confirm whether the business was legitimate and trading pre COVID19.</p> <p>It will also confirm whether the employee was employed by the employer prior to COVID19 and or whether the wage subsidy has been passed on to employee/s.</p> <p>The conversation with IR should end at this point.</p>

Desk Based Review	<ul style="list-style-type: none"> • open source check • qualify, 30% drop in revenue • mitigation • any employees • type of subsidy applied for i.e part time / full time / for whom 	A review of this information along with IR information, may indicate whether the likely issue is with a wage subsidy or a benefit. This will assist you in your conversation with the employer (sole trader)
Contact employer (sole trader)	<p>General conversation with employer about specifics of business –</p> <ul style="list-style-type: none"> • qualifications • how long has business been operating • how the business works • structure • income – what money they are receiving • revenue source • hours worked weekly / time spent working business • financial accounts, were they prepared last financial year? • at time of applying, why did they believe they qualified for the wage subsidy? • what was their thinking at the time? 	<p>If business is not legitimate or they don't meet the qualification for wage subsidy, at this point you could consider a refund of the wage subsidy and discuss with employer</p> <p>If wage subsidy was paid correctly, then you will need to move on and discuss the discrepancy regarding their benefit with them – see below</p>
Discuss Discrepancy	<p>Conversation depending on –</p> <ul style="list-style-type: none"> • Have they received a part-time or full-time wage subsidy? • Is any income declared? • Benefit Obligations • MSD documents – income questions, how were they answered? • Have they discussed self-employment with MSD? • What does IRD know about their business? • Why is MSD not aware of employment / income? 	Consider the effect of wage subsidy and any income on benefit and your next steps
Discuss next steps	<p>Was wage subsidy paid or benefit paid correctly –</p> <ul style="list-style-type: none"> • NFA required • FACE and or overpayment • Obtain written confirmation (email or PD) to transfer to non-beneficiary assistance • Refund? • The matter requires further investigation 	<ul style="list-style-type: none"> • Less than 2 weeks prior to lockdown i.e 11 – 12 March 2020 or later, adjust benefit from FAD and establish overpayment • More than 2 weeks prior to lockdown, adjust from FAD and refer for investigation (Programme - COVID19 Working Payroll). Email Fraud Allegation email address with heading: TO Desk Based Review • Assess FACE entitlement (non-beneficiary assistance)
Final steps	<ul style="list-style-type: none"> • Explain outcome to employer • Finalise and outcome audit sheet • Start refund process 	<ul style="list-style-type: none"> • Audit is complete

	<ul style="list-style-type: none"> • Benefit reviewed if required • Complete portal audit form • Add comment to EES Application '<i>Integrity Audit – (name of auditor)</i>' 	
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COVID-19 Target Audit

3 - IR Number Match s9(2)(k) OIA

This audit is looking at cases where an IR number provided on an application for wage subsidy matches an IR number for s9(2)(k) OIA. The wage subsidy IR number could relate to an employer, sole trader, self-employed or employee.

Step	Activity	Potential Outcomes
IR Information	IR confirm owner of matched IRD number	
Review EES	Review Application for Wage Subsidy	Identify name of person using IRD number
Desk Based Review	Review MSD information s9(2)(k) OIA <ul style="list-style-type: none"> SWIFTT AIMOS Refund issued? 	<p>A review of this information along with EES & IR information, may indicate whether the likely issue is a mistake / error / explainable anomaly, or whether it could indicate the mis-use of a third parties' IRD number.</p> <p>If a refund has been made, this may indicate that the anomaly was identified by the employer after the application was made</p>
Preliminary Finding	<p>Anomaly is likely to be explainable</p> <p>Anomaly is unlikely to be explainable</p>	<p>Anomaly likely to be explainable:</p> <ul style="list-style-type: none"> IR number and wage subsidy application likely to be incorrectly entered MSD records likely to be incorrect <p>Anomaly is not likely to be explainable:</p> <ul style="list-style-type: none"> Further investigation required as could be deliberate attempt to misuse another person's IRD number
Contact TRIAGE Manager	<p>Email TRIAGE Fraud Manager s9(2)(a) OIA</p> <p>Attach your audit sheet with full findings of desk- based review and preliminary findings</p>	<p>Explainable</p> <p>Unexplainable</p>
Next Steps	<p>Potential mistake / error or explainable:</p> <p>Employee IRD number</p> <ul style="list-style-type: none"> Phone / contact employer Discuss anomaly with use of the IRD number s9(2)(k) OIA Example 'we have noted that you included IRD number ***** for (name of employee) in your application. We need to confirm if those details are correct....' 	<p>This will confirm whether the record is correct or whether a mistake has been made.</p> <p>Possible issues:</p> <ul style="list-style-type: none"> Employee s9(2)(k) OIA and was still included in current payroll: <ul style="list-style-type: none"> Outcome -refund of wage subsidy for that person Employee/employer IRD number incorrectly keyed (MSD or employer records):

	<p>Employer /Sole Trader IRD number</p> <ul style="list-style-type: none"> • Phone employer / sole trader as above • Discuss anomaly with use of IRD number • s9(2)(k) OIA [REDACTED] • Confirm whether the IRD number they provided for their business was correct <p>Potentially unexplainable:</p> <ul style="list-style-type: none"> • Complete sheet and refer for investigation 	<ul style="list-style-type: none"> ◦ Outcome - confirm IRD number ◦ Outcome – if MSD record, contact Data Integrity to correct / remove IRD number • Employee IRD number is correctly keyed s9(2)(k) OIA [REDACTED]. This may indicate a deliberate attempt to misuse as third party's IRD number <ul style="list-style-type: none"> ◦ Outcome – refer for investigation • Employer / sole-trader cannot explain anomaly satisfactorily <ul style="list-style-type: none"> ◦ Outcome – refer for investigation
Final steps	<ul style="list-style-type: none"> • Finalise and outcome audit sheet • Start refund process if appropriate • Complete portal audit form • Add comment to EES Application 'Integrity Audit – (name of auditor)' 	Audit is complete

COVID-19 Target Audit

IR Corrections Match

This audit is looking at cases where an IR number provided on an application for wage subsidy matches an IR number for a wage subsidy recipient s9(2)(k) OIA [REDACTED] as at 21 April 2020.

Step	Activity	Potential Outcomes
Review IR Information	<p>Review IR risk level and reason from spreadsheet:</p> <ul style="list-style-type: none"> IR have assessed these cases as high / medium / low and provided the reason for that assessment 	
Review EES	<p>Review Application for Wage Subsidy:</p> <ul style="list-style-type: none"> Date of application pre or post 21 April 2020? 	<p>Identify name of wage subsidy recipient using IRD number and identify whether it is a sole-trader or employee.</p> <p>If MSD client, has there been a reapplication since 21 April 2020?</p>
Desk Based Review	<p>s9(2)(k) OIA [REDACTED]</p> <p>[REDACTED]</p> <ul style="list-style-type: none"> [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Review open source information to confirm a legitimate business – refer to 'Desk Based Review' process Steps in the desk file.</p>	<p>A review of this information along with EES & IR information, may indicate whether the likely issue is a mistake / error / explainable anomaly, or whether it could indicate the mis-use of a third parties' IRD number or whether it indicates a deliberate attempt has been made to obtain a wage subsidy illegally.</p> <p>If a refund has been made, this may indicate that the anomaly was identified by the employer after the application was made</p>
Preliminary Finding	<p>Anomaly is likely to be explainable</p> <p>Anomaly is not likely to be explainable</p>	<p>Anomaly likely to be explainable:</p> <ul style="list-style-type: none"> s9(2)(k) OIA [REDACTED] [REDACTED] [REDACTED] [REDACTED] Employer has included employee in error The employer has incorrectly keyed IRD number for an employee

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**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIATO ORA



**TE TAI ŌHANGA
THE TREASURY**



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

Joint Report: Detailed Settings for the COVID-19 Wage Subsidy

Date:	4 December 2020	Report No:	T2020/3646
		File Number:	SH-3-0-6

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	Agree to the proposals in this report	7 December 2020
Minister for Social Development and Employment (Hon Carmel Sepuloni)	Agree to the proposals in this report	7 December 2020
Minister for Workplace Relations and Safety (Hon Michael Wood)	Agree to the proposals in this report	7 December 2020

Contact for telephone discussion (if required)

Name	Position	Telephone		1st Contact
Sam Holmes	Principal Adviser, Welfare and Oranga Tamariki	s9(2)(g)(ii)	N/A (mob)	✓
Keiran Kennedy	Manager, Welfare and Oranga Tamariki	N/A (wk)	s9(2)(g)(ii) (mob)	

Minister's Office actions (if required)

Return the signed report to relevant Ministries, and refer to relevant Ministers

Note any
feedback on
the quality of
the report

Treasury Report: Detailed settings for the COVID-19 Wage Subsidy

Executive Summary

This report provides further advice on two areas of design choices for the COVID-19 Wage Subsidy, following on from previous advice seeking agreement to near-term changes to the subsidy [T2020/3581 refers].

Overall the Wage Subsidy Scheme (WSS) has been successful in its key objectives of supporting the economy through escalated alert levels. However, by necessity the WSS is a relatively broad policy tool, and as such is not well-suited to supporting a wider range of policy aims which might instead be better achieved through existing policy and regulatory settings (such as existing employment law).

Repayment of subsidy for profitable firms: Currently the wage subsidy is repayable when an employer did not meet the eligibility criteria (for example if its predicted revenue loss does not occur), is not upholding the conditions attached to the subsidy, has provided false information, or has received insurance to cover any costs covered by the subsidy.

We do not recommend any additional rules are added in relation to profit or revenue growth, given the complexity and uncertainty this would add to the scheme, and the risk of creating unintended hardship for certain firms and their employees.

However, we understand that public support for the scheme may reduce if companies are seen to declare significant profits after receipt of the subsidy. If Ministers wish to pursue options for repayment by profitable firms, we can discuss options with stakeholders and provide further advice. Any changes would not apply retrospectively, but would apply to any future WSS implemented during a resurgence.

Out of Scope



Recommended Action

We recommend that you:

For all aspects of this advice

1. **note** that as far as possible your views on this advice will be reflected in the paper for the Resurgence Package that Cabinet will consider in December;
2. **note** that if decisions on this advice are not provided before that deadline, we will include recommendations in the Cabinet paper that seek approval for any remaining design choices to be delegated to Joint Ministers;

Repayment of wage subsidy for firms with high revenue or profit

3. **note** that under the current settings, employers are required to repay the subsidy if they:
 - a do not meet the eligibility criteria, such as the revenue drop test or obligations around employees
 - b have provided false information, or
 - c have received insurance to cover costs covered by the subsidy;
4. **agree** to insert an obligation into the declaration for firms to keep records to show they meet these existing obligations;

Hon Robertson	Agree/Disagree
Hon Sepuloni	Agree/Disagree
Hon Wood	Agree/Disagree

5. **note** that there is no repayment rule for employers who have met all the criteria and obligations of the scheme, and experienced a 'bounce-back' in revenue or profit;
6. **note** that introducing a repayment requirement (based on profit, revenue or dividend payments) may create unintended consequences and undermine the scheme aims;
7. **indicate** if your preferred option to address the issue of firms making profits after receiving a wage subsidy is to:

Option 1: Make a public, but non-binding statement setting out an expectation for firms to repay the subsidy if they have made 'substantial profits' and/or experienced a 'substantial increase in revenue' and/or made dividend payments;

OR

Option 2: Create an additional repayment rule for employers who have met all the criteria and obligations of the scheme but have experienced an increase in profit or revenue [not recommended];

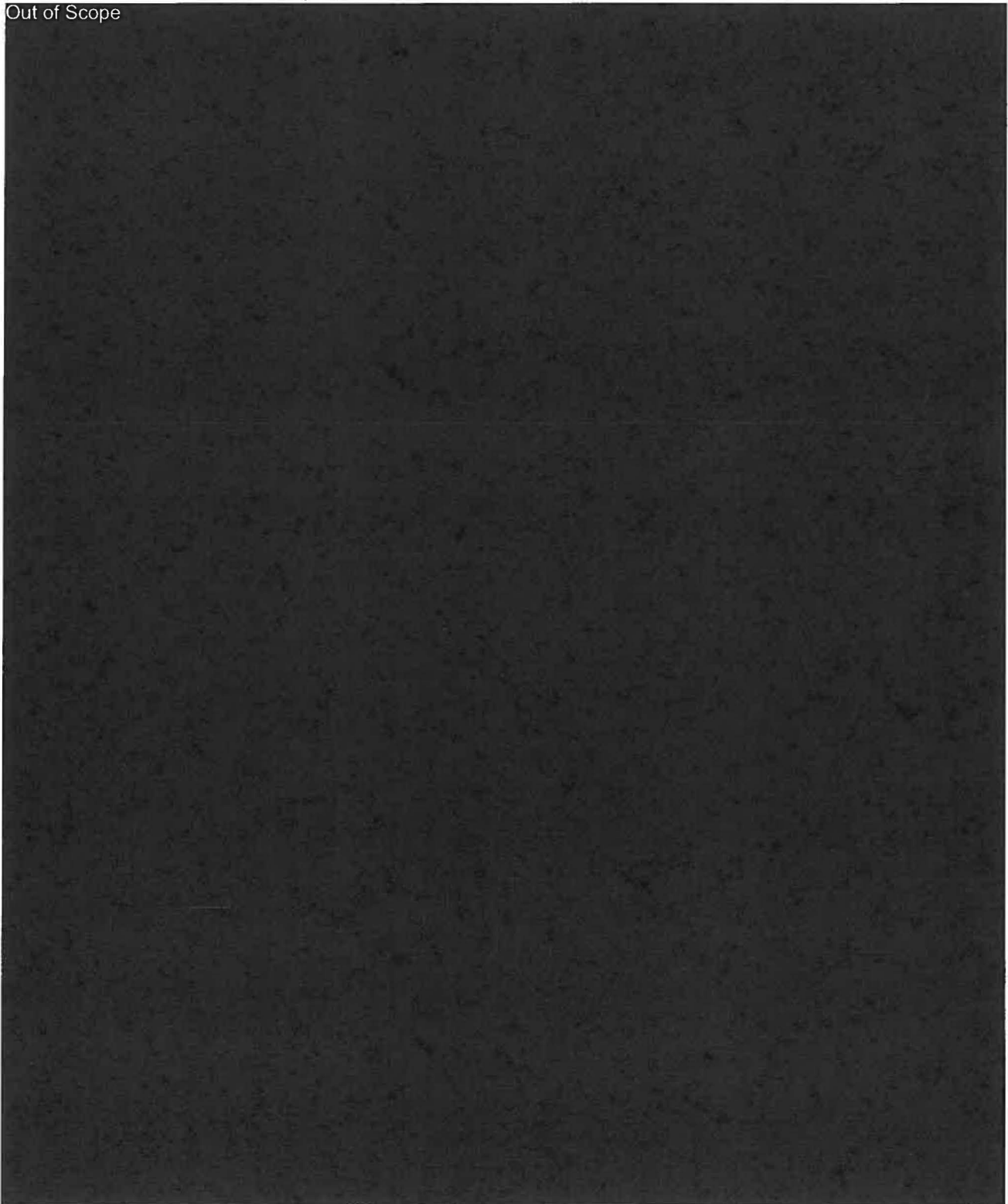
Hon Robertson	Option 1 / Option 2 / Neither
Hon Sepuloni	Option 1 / Option 2 / Neither
Hon Wood	Option 1 / Option 2 / Neither

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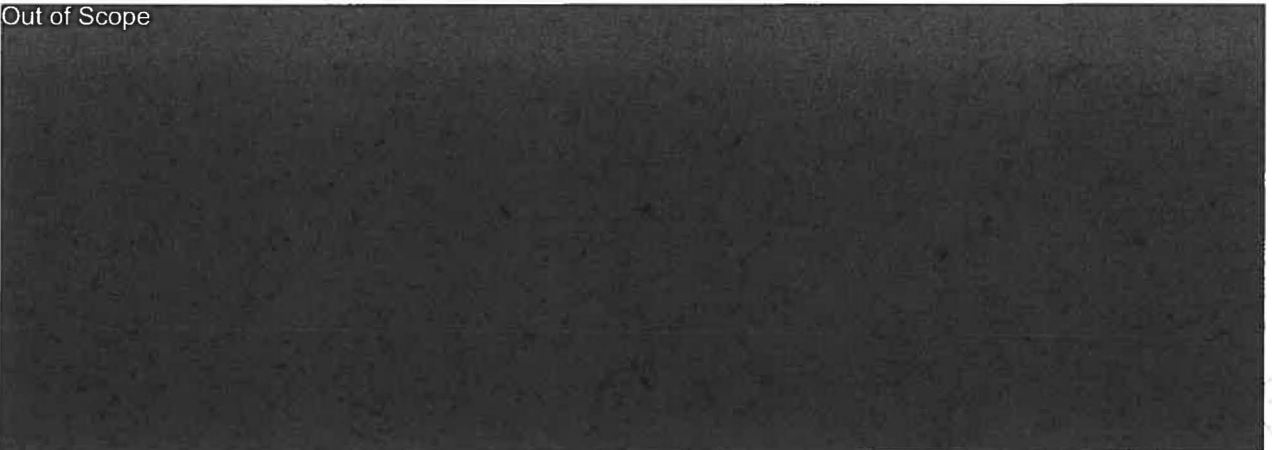
If you have indicated Option 2, then:

8. **direct** officials to discuss potential options with targeted stakeholders and report back with further advice on a workable option in February 2021;
9. **note** an additional rule would not apply retrospectively, but could apply to subsidies granted during a future resurgence of COVID-19;
10. **note** that officials' preferred approach is to do neither Option 1 nor Option 2, and to maintain the status quo;

Out of Scope



Out of Scope



Resurgence Package


20. **note** that following your previous decisions on the wage subsidy and assuming you agree to the recommendations in this report, the core proposals for the COVID-19 Wage Subsidy in the resurgence Cabinet paper will be:
- a A wage subsidy scheme that is triggered by Cabinet after 7 days at Alert Level 3 or 4;
 - b Retaining key scheme settings of a weekly rate of \$585.80 (full-time) or \$350 (part-time), 40% revenue-drop test and employee retention obligations;
 - c A clearer link between the current alert level escalation and eligibility for support;
 - d Two-weekly payments that match the duration of Alert Level 3 or 4 to the nearest fortnight
 - e increased visibility of audit, enforcement and repayment activity
 - f existing settings enabling the wage subsidy to be used to pay for annual leave
 - g no new repayment obligations for firms who have reported increased revenue, profit or dividend payments, but an added obligation for firms to keep records to show they have met these existing obligations
 - h possible Ministerial communications on an expectation that firms should repay the subsidy if they experience increased revenue or profits or pay a dividend

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21. **refer** this report to the Minister of Revenue and Minister for Small Business and Minister for Economic and Regional Development


Hon Robertson	Referred/Not Referred
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s9(2)(a) OIA




Keiran Kennedy
Manager, Welfare and Oranga Tamariki
The Treasury

s9(2)(a) OIA



Megan Beecroft
Policy Manager
Employment and Housing Policy
Ministry of Social Development

s9(2)(a) OIA



Tracy Mears
Manager, Employment Relations Policy
Ministry of Business, Innovation and Employment

Hon Grant Robertson
Minister of Finance

Hon Carmel Sepuloni
**Minister for Social Development and
Employment**

Hon Michael Wood
Minister of Workplace Relations and Safety

Treasury Report: Detailed settings for the COVID-19 Wage Subsidy

Purpose of Report

1. This report advises on options to amend COVID-19 Wage Subsidy Scheme settings, including advice on introducing repayment obligations for firms that have experienced increased revenue or profits, and disallowing the use of the wage subsidy for annual leave.
2. Subject to Ministers' views on the advice on this paper, these policy design choices could be reflected in the paper for the Resurgence Package that Cabinet will consider in December.
3. If deliberations on these issues are not finalised before the deadline for that Cabinet paper then Ministers can instead seek Cabinet approval for these design choices to be delegated to Joint Ministers.

Background

4. On 14 December the Minister of Finance, Minister for Social Development and Employment, Minister of Revenue, and Minister for Small Business and Economic Regional Development are taking a paper to Cabinet on the economic support package in the case of a resurgence of COVID-19.
5. A core part of this will be the wage subsidy scheme at Alert Level 3 and above. You recently received advice on this [T2020/3581 refers] which:
 - a Reported back on stakeholder views of the COVID-19 wage subsidy;
 - b Revisited the role and objectives of the subsidy in the context of a changed operating environment;
 - c Sought agreement to near-term changes to subsidy settings and to signal the criteria for introducing the subsidy going forward; and
 - d Sought your steer on whether to explore more substantive changes required to create a higher-integrity and more enduring subsidy.
6. Joint Ministers also agreed to a number of near-term changes to subsidy settings. However, further advice was requested on two issues which are covered in this paper:

Out of Scope



- b **Repayment of subsidy.** The Minister of Finance requested information on options for firms to repay the subsidy if they have experienced improved revenue or profits after the subsidy period.

Out of Scope



Repayment of Subsidy for Firms with Improved Revenue or Profits

Current rules for subsidy repayment

11. There are rules in place for employers to repay wage subsidies under a range of circumstances including:
 - a When they no longer meet eligibility criteria, such as through the revenue drop test;
 - b When they have not met other obligations;
 - c If they have provided false information; and
 - d If they have received insurance to cover costs covered by the subsidy;
12. The obligations signal the intent of the scheme but rely on a high-trust model which avoids high compliance and audit costs.
13. There are no obligations under current rules for firms who have reported large profits or dividend payments to return money they received under the subsidy scheme.

Would additional repayment conditions improve the scheme?

14. The objectives of the scheme are to:
 - a Temporarily support workers' incomes and employment attachment during elevated public health alert levels;
 - b Provide support for employers to pay wages if they are struggling to do so as a result of elevated alert levels
 - c Share the cost of public health alert levels between the Government, employers and employees, and across economic sectors;
 - d Balance short term labour market attachment with longer term labour market reallocation; and
 - e Encourage the shift to a COVID-19 resilient economy.
15. A 'high' level of firm profits over a year does not mean the wage subsidy was not warranted (where the firm met the criteria for the scheme and the current obligations). For example, profitability may have been a result of shifting to a more resilient business model or may be the result of economic activity prior to restrictions. Likewise, the employer may have struggled to pay wages during elevated alert levels but recovered after restrictions lift.
16. However the public may be less supportive of wage subsidy schemes if they feel the cost of public health restrictions is not being fairly shared. An additional repayment mechanism could mitigate this risk.
17. There is limited data on the number of recipient firms that have made profits and not all firms are required to make this information public. Recent media reports have focussed on a small proportion of recipient firms, including firms with sizeable reserves and firms which operated during restrictions.
18. Despite the risk of decreasing public support, we recommend against additional changes to the repayment rules of the scheme as the potential benefit (reducing public concern regarding the fairness of profitable firms receiving subsidy) is outweighed by the potential costs and complexity:
 - a A repayment rule triggered by future criteria (e.g. end-of-year profits) which may be difficult to estimate would add significant uncertainty for firms. Firms make commercial decisions at the time the subsidy is available (during elevated alert levels) amidst significant uncertainty about future revenue or profitability. A repayment rule may be seen as penalising firms for an outcome they could not have reasonably expected at the time the subsidy was made available.
 - b If firms met a new repayment requirement contingent on profitability then the subsidy received would become a form of loan. This type of scheme is distinctly different from a grant and would need to be carefully designed to achieve its intended purpose. The likely behavioural impacts of this are unclear but if targeted towards firms reporting "large" profits their debt may be increased, although their viability is unlikely to be impacted.
19. Any rule changes would only apply prospectively.
20. However, we do recommend some clarifications of the existing obligations including:
 - a Working with stakeholders to develop a framework for the existing recovery approach (including civil proceedings or prosecutions, for example where false information has been provided)

- b Clarifying an obligation on firms to keep records to show they meet the other obligations. This would align with the obligations proposed for the Resurgence Support Payment for firms.

Options for additional repayment obligations

21. We have considered some potential options for additional repayment rules, should Ministers wish to consider these. All options would need further exploration with stakeholders and would be subject to further advice. The repayment options are:
- a **A non-binding public expectation.** Government could make a public statement expecting firms to repay the subsidy if they have made 'substantial profits,' though this would not be enforceable.
 - b **A trigger based on profit.** Subsidy could be repaid if a reported year-end profit exceeds the amount of the wage subsidy received. This would ensure firms are not put in a loss for repaying the subsidy. s9(2)(f)(iv) OIA, s9(2)(k) OIA
[REDACTED]
[REDACTED]
 - i The definition of large firms (e.g. firms with more than 50 FTEs on wage subsidy – this would be aligned with SBCS limit)
 - ii The ratio of profit to subsidy received
 - iii The calculation of profit (e.g. taxable profit or accounting profit)
 - c **A dividend payment trigger.** The subsidy could be repaid if a firm makes a dividend payment. s9(2)(f)(iv) OIA, s9(2)(k) OIA
[REDACTED]
[REDACTED]
 - d **Revenue recovery trigger.** This trigger would be related to the revenue drop test. For example if the revenue of a firm increased by more than twice as much as the drop they had previously recorded. This does not necessarily indicate profitability and seasonality of revenue for some firms would be a factor to consider.
22. Further details on all options would need to be considered in future advice to delegated Ministers, following further engagement with stakeholders.
23. All of these options have several common risks:
- a No option would be able to cover every possible situation, and there are likely to be unintended consequences. There may be perceived or real differences in treatment between some firms who are in similar situations (for example large private firms and large publicly listed firms);
 - b The public may have decreased support for the scheme if gains are seen as being unfairly distributed due to distortions caused by these triggers;
 - c Firms may feel these changes create uncertainty about the availability of future support.