



Report

Date: 2 December 2020

Security Level: IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and Employment

Wage Subsidy Scheme: quarterly update on our on-going approach to audits and integrity

Purpose of the report

- 1 This report provides an update on the Ministry of Social Development's (MSD) approach to integrity of the Wage Subsidy Schemes (WSS).

Executive summary

- 2 The WSS were established using a high-trust model, and at pace, with payments made to applicants as quickly as possible to ensure support for those suffering the immediate economic impacts of COVID-19.
- 3 MSD, supported by other agencies, developed an audit programme to provide assurance around application integrity within the context of a high-trust model, which was strengthened by an independent integrity risk assessment. Based on the Cabinet decision, the implemented audit programme exceeded what was required.
- 4 Our approach to WSS integrity aligns with our approach to Client Integrity and is based on risk, using data analysis to target our efforts.
- 5 The majority of our fraud intervention resources have been focused on WSS integrity work.
- 6 At current levels, our management of identified exceptions, complaints and targeted audits and complaints is expected to be completed by 23 December 2020.
- 7 WSS fraud investigations may continue for up to 12 to 18 months due to the complex nature of some investigations and where prosecution action is contemplated.
- 8 Should a future version of the WSS be implemented in response to moving up Alert Levels, applying our integrity approach would enable MSD to continue to respond to instances of fraud.

Recommended actions

9 It is recommended that you:

- a) **agree** that the Ministry continue its approach to WSS integrity and audits, as outlined in this report

agree / disagree

- b) **agree** to forward a copy of this report to the Minister of Finance.

agree / disagree



Viv Rickard
DCE Service Delivery

02/12/2020

Date

Hon Carmel Sepuloni
Minister for Social Development and
Employment

Date

Audit and integrity of the Wage Subsidy Schemes

The Wage Subsidy Schemes (WSS) were established using a high-trust model

- 10 The WSS were established using a high-trust model, and at pace, with payments made to applicants as quickly as possible to ensure support for those suffering the immediate economic impacts of COVID-19.
- 11 Cabinet agreed¹ that information provided within the applications would not be verified before payments were made and that MSD would have the ability to later audit applications and verify eligibility, referring possible instances of fraud for investigation.

MSD developed and implemented an audit programme to support the integrity of the WSS

- 12 MSD, supported by the Ministry of Business Innovation and Employment (MBIE), Inland Revenue (IR), and Treasury developed an audit programme for the WSS to provide assurance around application integrity within the context of a high-trust model. Learnings were taken from previous subsidies enacted following the Christchurch and Kaikoura earthquakes.
- 13 The intent of this audit programme was to help ensure that only applicants who met our criteria were receiving support from the subsidy and to recover payments from those who incorrectly received support from the subsidy.
- 14 The approach, building on the applicant declarations for each Scheme, included pre- and post- payment checks of employer details, a coordinated complaints process, a thorough investigations process, and a repayment process. Based on the Cabinet decision, the implemented audit programme exceeded what was required.

Declaration

- 15 As part of the application process, applicants were required to confirm they met the eligibility criteria and understood the full range of obligations as listed on the declaration form. Appendix 1 provides further details on these obligations.
- 16 The qualifying criteria included a requirement that the applicant identify their employees, declare that the applicant had taken steps to mitigate the impact of COVID-19 on their business, and declare that their business had experienced the relevant revenue loss. The annual profit a business might have made subsequent to receipt of the wage subsidy is not relevant to their eligibility to receive the wage subsidy at the time of their application.
- 17 Applicants were also required to consent to their business names being published online, together with the size of the wage subsidy grant and for how many employees, to provide a level of transparency for the Schemes and support the complaints process.
- 18 The declaration sets out the agreement between MSD and the WSS recipient. In effect it forms a contract between the parties, with the recipient agreeing to the terms and conditions of the application and what they will receive from MSD in response. With each new iteration of the WSS, a new declaration was prepared to reflect the relevant policy changes.

Additional checks

- 19 Pre-payment checks, including validation of information with IR, helped ensure that payments were only being made to genuine employers and sole-traders within the context of a high-trust model. Pre-payment checks of large employers (80+

¹ CAB-20-MIN-0105, CAB-20-MIN-0108.

employees) included more detailed discussions to ensure their information was correct and that they met the eligibility criteria before approval.

- 20 Post-payment checks consisted of both random and targeted audits of payments made to businesses, led by a team of around 100 MSD Fraud Intervention Services staff and supported until recently by a team of Compliance Specialists from IR.
- 21 These are not considered full technical or financial audits, and included:
 - desk-based reviews of open source public information – to determine the business is real, is operating in New Zealand and were operating prior to the event
 - contacting the applicant to discuss their application – to discuss any identified discrepancies or complaints, checking they meet the eligibility criteria, checking that they are a real business and is / was operating, understanding the nature of their business and their revenue drop, reconciling employee numbers, confirming the subsidy has been passed on to the employees applied for, and confirming that they are meeting their obligations. Where required additional information may be requested
 - contacting other agencies to confirm information – to verify any relevant details pertaining to the Wage Subsidy application with IR, MBIE, DIA and Corrections.

Complaints

- 22 MSD, MBIE and IR developed a complaints process with respect to employment law breaches, and non-compliance with the obligations in the wage subsidy declaration and tax law obligations. This recognised each agencies' role in managing the relevant issues.
- 23 The complaints process was supported by the publishing of employer names via an employer search tool. This helped ensure transparency about who has been granted assistance and to support employees or other interested parties to raise concerns.
- 24 The assessment of complaints received by MSD also informs which applications need to be referred for auditing and / or investigation.

Our audit programme has been refined and shifted in focus over time

MSD has an on-going strategic approach for auditing the WSS

- 25 Our approach to WSS integrity aligns with our approach to client (benefit and housing) integrity, which focuses on a graduated model from prevention and early intervention through to investigation:
 - we use data insights to understand areas of integrity risk
 - we have systems, processes and controls to support people to do the right thing and deter fraudulent behaviour
 - we detect identified risk behaviours and intervene early
 - we target our investigative resources to address serious fraud.
- 26 Controls implemented from the beginning of the WSS were refined over time as we learned more about the behaviours of applicants, through joint risk analysis with IR and with recommendations from an independent integrity risk assessment of the WSS.

Joint analysis with IR informed our targeted auditing

- 27 From April 2020, MSD engaged with IR to discuss data sharing and analysis to assist with audit and investigative processes.
- 28 Risk indicators were identified for data analysis to further inform targeted auditing, and were refined over time, including but not limited to where:

s 9(2)(k)

The audit programme was strengthened by an independent integrity risk assessment

- 29 MSD also commissioned Deloitte to undertake an integrity risk assessment of the WSS. Deloitte analysed how the initial scheme had been administered and provided 12 recommendations to enhance integrity.
- 30 The recommendations addressed several key risk areas:
 - applicants being paid the subsidy without meeting the eligibility criteria
 - applicants being overpaid the subsidy
 - false applications for employers that have not claimed the subsidy
 - manipulation of application data
 - the approval of ineligible applications
 - access to data.
- 31 Deloitte identified three areas that could provide valuable integrity enhancements in the short-term, relating to increased communications around reminding businesses of their obligations, enhanced risk analysis and further shifting to targeted audits.
- 32 Integrity enhancements were made from 10 June 2020 for the Wage Subsidy Extension (WSX) and subsequent Wage Subsidy Resurgence (WSR) to address these three, and a further six, recommendations.
- 33 Three recommendations related to automation to reduce manual processes were not implemented: the reconciliation of large employer file data and payments, system improvements for large employer applications, and automating the transfer of the payment file to Finance. While these would have reduced processing effort, they were too complex to carry out within the timeframe available. Where feasible MSD have made manual enhancements to mitigate the risks identified by Deloitte.
- 34 See Appendix 2 for a summary of Deloitte's recommendations.

Our audit programme focused on areas of risk, but the majority of businesses have done the right thing

- 35 MSD paid out \$13.8b across the initial Wage Subsidy (WS1), the WSX and the WSR from mid-March to early September 2020.
- 36 Of the \$13.8b, \$5.8b was audited pre-payment (i.e. nearly all large employers with over 80 employees) or was applied for after enhanced integrity controls had been put in place (i.e. all WSX and WSR applications).
- 37 An estimated \$1.1b across the Schemes also went through post-payment auditing. This included random auditing which found very little in the way of integrity issues, targeted auditing on applications with identified integrity risks (see paragraph 28), and allegations auditing as part of the complaints process.
- 38 We therefore consider around 50% of total WSS expenditure (\$6.9b) has been subject to higher integrity controls.

39 s 9(2)(k)

- 40 This included looking at WS1 payments made to businesses whose WSX and WSR applications were exceptioned out for further auditing as they met one or more integrity risk criteria (of which 60% were declined).
- 41 Across our post-payment, allegation and investigation workstreams only around 18% of these higher risk applications required a partial or full repayment, reinforcing that the majority of businesses did the right thing.²

We continue to focus on complaints management and investigations

- 42 We note that most applications for WS1 were businesses with five or fewer employees, including the self-employed. This group accounted for 88% of all WS1 applications but only 31% of WS1 expenditure, as each received a relatively small amount from the Scheme.
- 43 Applications from self-employed and smaller employers were therefore more likely to be randomly audited and more likely to meet one of our identified targeted auditing risk criteria.
- 44 Repayments identified from our audit programme have been relatively low compared to the value of WSS expenditure. All businesses signed declarations to confirm they met the eligibility criteria and understood their obligations, and many have since voluntarily refunded subsidies when their eligibility changed, or revenue was better than expected.
- 45 As at 30 October 2020, repayments worth \$524.3m have been identified. Of this, \$489.1m has been voluntarily identified by businesses for repayment, and \$35.2m has been identified for repayment following an audit or investigation.
- 46 Those who have not been audited can still have their applications scrutinised following complaints laid by staff or people concerned by what they find in the wage subsidy employer search tool. Over 11,000 complaints have been received and followed up by MSD, MBIE and IR to date, although these have reduced significantly since the end of the Schemes. Investigations may continue for up to 12 to 18 months (see below).

We will continue to monitor the Leave Support Scheme

- 47 Uptake for the COVID-19 Leave Support Scheme (LSS) has been much lower than that of the other Schemes, as has the auditing activity to date.
- 48 We will monitor and adjust our auditing approach for LSS based on our on-going understanding of the existing areas of risk.

The majority of our fraud intervention resources have been focused on WSS integrity work

- 49 Following the end of the WSS application periods, auditing activity has primarily focused on:
- pre-payment exceptions of WSX and WSR applications
 - post-payment targeted audits of payments
 - assessing and auditing complaints made in relation to the WSS
 - managing WSS repayments
 - investigation of cases of potential WSS fraud.
- 50 See Appendix 3 for quarterly and current WSS audit programme volumes.

² In early May, when post-payment auditing was predominantly random, only 5% of applications audited required partial or full repayment. By the end of October, predominantly targeted auditing found repayments required in 15% of cases and in 35% of cases for resolved investigations.

- 51 WSS audit and investigation activity has been managed by a team of approximately 100 Fraud Intervention Services (FIS) staff who typically focus on benefit fraud prevention, early intervention and investigation. The majority of this work has been paused to enable us to respond to WSS integrity work.
- 52 Funding through Budget 20 allowed for 11 FTE to support WSS integrity work.
- 53 A pool of IR Compliance Specialists supported WSS auditing activity until 27 October 2020, with up to 25 IR staff working with MSD at any one time. IR Compliance Specialists continue to provide support with specific investigations.
- 54 At current levels, our management of application exceptions, targeted audits and complaints is expected to be completed prior by 23 December 2020 by focusing most FIS resources on these areas of work.
- 55 This will allow us to gradually shift some resources back to Client Integrity (prevention, early intervention and investigation) work from early 2021 unless further auditing is required i.e. if new integrity risk behaviours or indicators are identified.
- 56 It is likely that between 40 and 50 FIS staff will still be required to manage WSS investigation activity from January 2021, at least in the short term.
- 57 See Appendix 4 for an overview of our integrity activity and forward plan.

Investigations may continue for up to 12 to 18 months

- 58 WSS fraud investigations may continue for up to 12 to 18 months due to the complex nature of some investigations and where prosecution action is contemplated.
- 59 All investigations require information to be gathered to determine what action will be taken. Because WSS payments are not paid under the Social Security Act 2018, our information gathering powers are limited to the consents given by employers as set out in the WSS declaration and the principles set out in the Privacy Act 1993.
- 60 We are working with Police to gain production orders or complete search warrants as provided for in the Search and Surveillance Act 2012.

Investigations may result in civil enforcement action or criminal prosecution

MSD does not have a legislative authority to collect WSS repayments

61 s 9(2)(k)

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Our approach to prosecutions is also being developed

- 64 Employers who committed fraud in filing WSS applications or misappropriated WSS payments (e.g. by failing to inform MSD that their circumstances changed) may be liable for prosecution under the Crimes Act 1961.
- 65 MSD may look to restrain and forfeit assets acquired or derived under the Criminal Proceeds (Recovery) Act 2009, whether or not a case is progressed to prosecution.

Our decision making on enforcement and recovery must be consistent

- 66 Crown Solicitors Meredith Connell are supporting MSD in approaching civil enforcement and criminal prosecution.
- 67 To ensure we are consistent in applying the criteria for progressing cases for civil enforcement or criminal prosecution we are documenting our decision making framework and will discuss this with you once completed. Our decisions will factor in the scale and nature of the misuse or offending, and the level of intent or collusion involved to defraud the Schemes.

Our integrity approach will respond to resurgence scenarios

We will continue to use risk analysis and up-front controls (as implemented for the WSX and WSR)

- 68 We have collected a significant amount of data and insights to better understand which applications have the most risk and which employers likely should not have received the subsidy.
- 69 For future iterations of the WSS our auditing approach based on existing integrity and error risks is likely to identify those applications that should not be approved before payment is made.
- 70 However, our approach will be reviewed in line with any changes to the settings for future iterations of the WSS.

Audit NZ and OAG activity

Audit New Zealand continue to assess the impact of our auditing

- 71 Audit NZ has included the WSS in their Audit plan and have been assessing the responsiveness and impact of our auditing.
- 72 This includes:
- assessing the systems and controls for the submission, approval and payment of the WSS
 - testing appropriate key controls to gain assurance they are operating effectively
 - gaining assurance that post-payment audits and any data verification process is operating effectively to mitigate the risk of fraud
 - testing a sample of WSS payments made to employers to ensure they are valid and accurate.
- 73 We are working closely with Audit NZ to support the audit and expect to see an interim report for comment in December 2020.
- 74 We will consider any recommendations from this audit work for ongoing WSS integrity work and future iterations of the WSS.

The Office of the Auditor General are undertaking a performance audit of the WSS

- 75 The Office of the Auditor General (OAG) announced on 14 September 2020 its plan to further review how the WSS have been managed by the relevant agencies. They are focusing on:
- how MSD has accounted for public funds used for the WSS and how it has been reporting on its performance in managing the scheme
 - how effectively key agencies have managed the scheme, including how well the scheme was setup, how payments were managed, the overall integrity of the scheme, and oversight and monitoring.
- 76 The performance audit is using and building on the information provided to Audit NZ to minimise duplication of effort by agencies at this time.
- 77 We are working closely with the OAG to provide access and information to support the performance audit. The OAG intend to report back on their work in the second quarter of 2021.

78 We will consider any recommendations from this performance audit for ongoing WSS integrity work and future iterations of the WSS.

Next steps

79 If you agree that MSD continue the strategic approach to WSS integrity, as outlined in this report, we will focus on:

- resolving the identified complaints, exceptions and targeted audits
- progressing WSS investigation cases
- gradually shifting resources, as available, back onto Client Integrity work.

80 The next quarterly report, to 31 December 2020, will be due in early 2021.

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Author: Outside Scope, Graduate Policy Analyst, Employment & Housing Policy
Brett Davies, Team Manager Information and Advice, Integrity and Debt

Responsible manager:
Warren Hudson, General Manager, Integrity and Debt

Appendix 1: Employer obligations for the WSS

Applicants complete declarations when applying requiring them to confirm that:

- they meet the eligibility criteria (e.g. loss of revenue, have taken active steps to mitigate the impact of COVID-19 on their business, is not receiving another COVID-19 subsidy)
- they have discussed the application with named employees, who consent to sharing information in the application and for the purposes of verification
- the employer consents that the details in the application may be verified with other agencies
- the employer is aware that they may be audited and prosecuted for fraud if they have provided false information
- the employer will notify MSD if circumstances change that affect their eligibility
- the employer will repay any amount which they are not entitled to.

Appendix 2: Deloitte integrity risk assessment recommendations

1. Increased communications with applicants before and after payment:
 - a. Reiterating obligations through direct emails to previous applicants
 - b. Improved information online for sole traders / self-employed
 - c. Improved information on how to repay the subsidy
2. Improved application processes to ensure we are collecting accurate data:
 - a. Additional mandatory questions to ensure the applicant accepts the eligibility criteria e.g. confirming a 40% drop in revenue
 - b. Additional data fields to strengthen validation and approval of applications
 - c. Strengthening automation to ensure that the correct data is being captured
 - d. Enhancements to better manage Wage Subsidy / benefit overlap
3. Stricter settings around approval by users processing applications:
 - a. Grouping applications from the same employers together to ensure consistency and prevent duplication
 - b. Reviewing access rights for approvers to ensure system access is appropriate
4. A more targeted audit programme based on risk analysis undertaken with IR:
 - a. Moving from randomised audits to more targeted audits
 - b. Enhancing joint analysis with IR to identify higher risk applications.
 - c. Additional approval steps for WSX / WSR applicants where we have integrity concerns relating to their initial WS application
 - d. Using IR Compliance Specialists to support MSD's audit work.

Appendix 3: Quarterly and current WSS audit reporting update

	As at Friday 26/06/20	As at Friday 25/09/20	As at Friday 30/10/20
Pre-payment audits completed (80+ employees)	1,725	1,789	1,789
Value of pre-payment audits (80+ employees)	\$2.9b	\$3.0b	\$3.0b
Pre-payment exception audits completed (WSX/WSR)	Nil	1,502	2,022
Post-payment audits completed (random and targeted)	5,723	6,469	6,639
Total audits resolved	7,448	9,760	10,450

Total complaints	8,269	11,123	11,476
MSD complaints received	2,690	4,095	4,342
MSD complaints resolved	1,366	3,124	3,834

Referred for investigation	449	802	867
Investigations underway	91	331	321
Investigations resolved	Nil	253	319

Employer-initiated refunds requested	11,354	16,842	17,477
MSD-initiated refunds requested	636	1,417	1,784
Total refunds requested	11,990	18,259	19,261
Value of refunds requested	\$309.7m	\$478.1m	\$524.3m
Refunds received	7,146	15,713	16,754
Value of refunds received	\$204.9m	\$457.8m	\$498.6m

Appendix 4: WSS integrity activity

