



**MINISTRY OF SOCIAL
DEVELOPMENT**

TE MANATŪ WHAKAHIATO ORA

Dear

On 13 September 2021, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- *All regular reports generated internally and/or sent externally, regarding investigations of potential abuse of the wage subsidy scheme, since January of this year. My presumption is that there will be committees or high-level groups that are sent periodic updates on these investigations, including information about various outcomes (no further action, referred for prosecution, etc).*

The Ministry has identified the following papers that are in scope of your request:

File number	Date	Document type	Title
REP/21/2/047	10 February 2021	Report	Wage Subsidy Scheme: quarterly update on our on-going approach to audits and integrity
N/a	1 June 2021	Memo	Fraud Intervention Services - Benefit Fraud Quarterly Report to 31 March 2021
REP/21/5/529	2 June 2021	Report	Wage Subsidy Scheme: quarterly update on our on-going approach to audits and integrity
REP/21/8/810	27 August 2021	Report	Wage Subsidy Scheme: quarterly update on our on-going approach to integrity

The Ministry has provided you with REP/21/5/529 and REP/21/8/810 following another request that you made to the Ministry under the Act on 13 September 2021. These documents are, therefore, not included in this release.

You will note that some information in REP/21/2/047 is withheld under section 9(2)(h) of the Act in order to maintain legal professional privilege. The greater public interest is in ensuring that government agencies can continue to obtain confidential legal advice.

Most parts of the memo *Fraud Intervention Services - Benefit Fraud Quarterly Report to 31 March 2021*, dated 1 June 2021, refer to benefit fraud. These parts have been redacted as they are out of scope of your request.

In addition, some information in the memo has been withheld under section 6(c) of the Act where making that information available would be likely to prejudice the maintenance of the law, including the prevention, investigation and detection of offences.

Note, there was no Benefit Fraud Quarterly Report to 30 June 2021. The next relevant report will cover two quarters and will be produced in December.

The principles and purposes of the Act 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 with us, please feel free to contact 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 or 0800 802 602.

Yours sincerely

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

George van Ooyen
Group General Manager
Client Service Support



Report

Date: 10 February 2021

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).
- 2 This is the third quarterly report (to 31 December 2020).

Executive summary

- 3 The majority of identified WSS integrity checks have been completed and we are now transitioning some resources back to Client Integrity work.
- 4 Our WSS enforcement and recovery framework has been developed and investigations are progressing.
- 5 We will provide further information to your office on relevant enforcement and recovery activity as it progresses.
- 6 The next quarterly report (to 31 March 2021) is due in April 2021.

Recommended actions

- 7 It is recommended that you:
 - a) **agree** to forward a copy of this report to the Minister of Finance.

agree / disagree

Viv Rickard
DCE Service Delivery

Date

Hon Carmel Sepuloni
Minister for Social Development and
Employment

Date

Audit and integrity of the Wage Subsidy Schemes progress

8 In December 2020, for the quarterly report to 30 September 2020, we reported that:

- the majority of our Fraud Intervention Services (FIS) resources have been focused on WSS integrity work
- our management of WSS audits and complaints was expected to be largely completed by 23 December 2020 by focusing most FIS resources on these areas of work
- we expected 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 or new schemes are established
- 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
- WSS fraud investigations may continue for up to 12 to 18 months due to the complex nature of some investigations and where criminal and civil enforcement and recovery action is contemplated
- to ensure we are consistent in applying the criteria for progressing cases for criminal and civil enforcement and recovery we are documenting our decision making framework.

The majority of Wage Subsidy integrity checks are completed

9 As at 31 December 2020, there were nominal identified integrity issues (WSS audits or complaints) still to be assigned to FIS staff for follow up.

10 We are transitioning some FIS resources back to Client Integrity work i.e. our early intervention, facilitation and investigative responses to allegations of benefit and housing fraud.

11 As previously reported, a significant proportion of FIS staff will continue to manage WSS investigations and these may continue for 12 – 18 months.

12 As at 31 December 2020, there were 982 WSS cases referred for investigation. Of these, 345 cases were underway, and 222 cases were waiting to be assigned. New cases may be identified for investigation as we finalise the remaining WSS integrity checks and continue to address any WSS complaints received. The number of WSS complaints received across MBIE, IR and MSD, has reduced significantly following the closure of the Schemes.

13 As at 18 December 2020, a total of 11,824 complaints had been received by the three agencies, with only 103 new complaints lodged between 20 November and 18 December 2020.

14 See Appendix 1 for quarterly WSS audit programme volumes.

We have developed our enforcement and recovery approach

15 We have worked with Crown Solicitors Meredith Connell to build our approach to civil enforcement, criminal prosecution and the recovery of WSS payments.¹

16 This includes:

- upskilling FIS staff to progress investigations within a different legislative framework i.e. the Crimes Act 1961, the Criminal Proceeds (Recovery) Act 2009

¹ Because WSS payments are not paid under the Social Security Act 2018, we have not been able to rely on our usual powers to gather evidence for WSS investigations or collect WSS repayments.

- working with Police to gather evidence using Production Orders under the Search and Surveillance Act 2012
 - finalising our enforcement and recovery decision-making framework to outline where criminal or civil enforcement and recovery actions are appropriate, and ensure these decisions are made robustly and consistently
 - developing guidance and processes for staff to support their work within the framework
 - establishing a WSS Recovery and Response Panel to apply the Public Interest Test (as per the Solicitor-General Guidelines) on cases recommended for criminal prosecution, and to make decisions on civil enforcement and recovery responses where appropriate.
- 17 See Appendix 2 for our WSS Enforcement and Recovery framework. The framework will be reviewed and updated as appropriate as enforcement and recovery activity progresses.
 - 18 The WSS Recovery and Response Panel will convene on 22 February 2021 to consider the first cases recommended for enforcement and/or civil recovery.
 - 19 We will provide further information to your office on enforcement and recovery decisions taken.
 - 20 The next quarterly report (to 31 March 2021) is due in April 2021.

Report number: REP/21/2/047

Author: Brett Davies, Team Manager Information & Advice, Integrity and Debt

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

Appendix 1: Quarterly WSS audit reporting update

	As at Friday 26/06/20	As at Friday 25/09/20	As at Friday 18/12/20
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	2,075
Post-payment audits completed (random and targeted)	5,723	6,469	7,308
Total audits resolved	7,448	9,760	11,172

Total complaints	8,269	11,123	
MSD complaints received	2,690	4,095	4,631
MSD complaints resolved	1,366	3,124	4,534

Referred for investigation	449	802	982
Investigations underway	91	331	345
Investigations resolved	Nil	253	415

Employer-initiated refunds requested	11,354	16,842	17,962
MSD-initiated refunds requested	636	1,417	2,401
Total refunds requested	11,990	18,259	20,363
Value of refunds requested	\$309.7m	\$478.1m	\$594.7m
Refunds received	7,146	15,713	17,695
Value of refunds received	\$204.9m	\$457.8m	\$541.3m

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Memo

To: Risk and Audit Committee

From: Warren Hudson, General Manager Integrity and Debt

Date: 1 June 2021

Security level: IN CONFIDENCE

Fraud Intervention Services - Benefit Fraud Quarterly Report to 31 March 2021

Purpose

1. To update the Committee in relation to:

Out of scope



- d. Wage Subsidy Recovery and Response
- e. Wage Subsidy Reviews by Audit NZ and the Office of the Auditor General (OAG).

Out of scope



Out of scope

Recommendations

6. I recommend that the Risk and Audit Committee:

Out of scope

- b) ongoing Wage Subsidy related integrity activity
- c) **note** that we are implementing recommendations resulting from the Audit NZ and OAG reviews of Wage Subsidy.

Out of scope

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Wage Subsidy Recovery and Response

16. We have been working to transition FIS staff back to benefit integrity work since the beginning of this year, accepting that we continue to have around 45 staff (out of around 105 investigators) focused on Wage Subsidy investigations.
17. The establishment of the Wage Subsidy March 2021 payment (WSSMAR21) meant temporarily diverting staff away from Wage Subsidy investigations and benefit integrity work to support the payment and integrity of new applications for the WSSMAR21.
18. FIS were responsible for pre-payment integrity checks of large employers (more than 80 employees) as well as conducting pre-payment integrity checks for those applications excepted out where they met one or more risk criteria.
19. Pre-payment integrity checks for WSSMAR21 were strengthened in line with the updated declaration, and recommendations from Audit NZ and the Office of the Auditor-General, to routinely include that applicants provide evidence of their revenue drop attributed to the change in Alert Levels. This meant the pre-payment integrity checks for WSSMAR21 took longer to resolve than for previous schemes, while we waited for evidence to be provided.
20. WSSMAR21 pre-payment integrity checks are completed, and FIS staff are now refocused on benefit integrity work, alongside ongoing WSS investigations.
21. We continue to work with Police to gather evidence to support WSS investigations, via production orders as provided for in the Search and Surveillance Act 2012. Cases being investigated cover a broad range of scenarios: s6(c)

22. A WSS Recovery and Response Panel was established in February to make decisions on civil recovery and prosecution action. While the Panel has made some decisions to pursue civil recovery, it is yet to consider any cases for prosecution, although we expect these to start coming through in the coming weeks and months.

Audit NZ and OAG activity

23. Audit NZ and OAG have completed their reviews into the implementation of the Wage Subsidy, including the integrity approach. There were four key recommendations in relation to our integrity programme for the WSS:
- a. that the Ministry seek positive confirmation (which could be targeted towards larger or risk-indicated recipients) that recipients confirm compliance with eligibility criteria and obligations (Audit NZ).
 - b. that the Ministry sample clients with whom we did a random post payment audit to seek documentary confirmation that they met the criteria (OAG).
 - c. that the Ministry take prosecution action where possible and necessary to recover wage subsidy funds and/or to hold people to account for criminal behaviour (OAG).
 - d. that the Ministry analyse the results of the integrity and assurance work undertaken to date to inform a risk-based assessment of next steps, and what further integrity work needs to be completed, if any, to strengthen the integrity of the Scheme (Audit NZ).
24. Recommendations a to c are currently being progressed. The results of this work will inform our actions in relation to recommendation d.