Hon Carmel Sepuloni, Minister for Social Development and Employment

Hon Jan Tinetti, Minister for Child Poverty Reduction

Hon Ginny Andersen, Minister of Justice

Hon Dr Deborah Russell, Associate Minister of Revenue

Information Release

Policy framework for debt to government

September 2023

Availability

This information release will be made available following announcement of the decision on Inland Revenue's tax policy website at https://taxpolicy.ird.govt.nz/publications/2023/2023-ir-swc-23-sub-0092

Documents in this information release

#	Reference	Type	Title	Date
1	SWC-23-SUB-0092	Cabinet paper	Cabinet paper - Policy framework for debt to government	26 July 2023
2	SWC-32-MIN-0092	Minute	SWC Minute of decision – Policy framework for debt to government	26 July 2023

Additional information

The Cabinet paper was considered by the Cabinet Social Wellbeing Committee on 26 July 2023 and confirmed by Cabinet on 31 July 2023.

Information withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply are identified. Where information is withheld, no public interest was identified that would outweigh the reasons for withholding it.

Sections of the Act under which information was withheld:

9(2)(f)(iv) to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials

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Office of the Minister for Social Development and Employment

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Office of the Associate Minister of Revenue

Chair, Cabinet Social Wellbeing Committee

Policy framework for debt to government

Proposal

1 The Minister for Social Development and Employment, the Minister for Child Poverty Reduction, the Minister of Justice and the Associate Minister of Revenue ("Joint Ministers") ask Cabinet to formally adopt an all-of-government policy framework for debt to government, and to agree how it should be implemented and monitored. The proposed framework is attached as Appendix One.

2 The paper also provides a more general update on the debt to government work programme.

Relation to government priorities

3 The framework has a particular focus on the way government agencies create and manage personal debt[1] owed by low-income households. This supports the Government's priority of reducing child poverty and mitigating the impacts of poverty and socio-economic disadvantage.

Executive Summary

4 Many low-income New Zealand households owe debt to the government, and the level of outstanding debt is increasing. While not all of this debt is necessarily problem debt, the policies guiding the creation and management of this debt can in some cases exacerbate financial and emotional hardship.

5 This Government has made significant investments in improving income adequacy and is also investing in policy change and systems transformation that will help prevent overpayments. The proposal for an all-of-government policy framework is part of this wider work programme to reduce the incidence and impact of debt to government.

[1] The framework is aimed at personal debt, and is not intended to be applied to commercial debt or debt owed by companies, partnerships, trusts or other organisations.

6 The proposed policy framework aims to improve policy making around debt, and to provide guidance on the management of debtors in hardship. It is not prescriptive as it recognises that decisions relating to debt owed to government must take into account financial, behavioural and administrative trade-offs.

7 The proposal for implementing the framework is that Cabinet adopt it as a policy tool, published on the Inland Revenue (IR) website. Ministers would agree to analyse any Cabinet proposal relating to debt to government against the framework's principles and include a discussion of that assessment in the Cabinet submission.

8 The framework is forward-looking: it will not apply to existing policies except insofar as Ministers agree to do this on a case-by-case basis. To understand the extent to which existing policies may not comply with the framework, Joint Ministers' view is that over time all Ministers should agree to carry out a one-off scan of their agencies' existing debt management policies and identify any inconsistencies. In the first instance, Joint Ministers are proposing to build on their own agencies' work to date and undertake a comprehensive scan of the policies they have in place.

9 Joint Ministers propose to report back to Cabinet after twelve months. The report-back would:

9.1 assess the effectiveness of the framework as a tool to inform policy decisions,

9.2 note any changes in their agencies' debt policies or operations that have been implemented (or are recommended to be implemented) as a result of the scan exercise discussed above, and

9.3 advise on future reporting and evaluation.

10 The report will also provide an opportunity for Ministers to feed lessons back from the scan of their agencies and consider whether the debt policy work programme should be extended to a wider set of portfolios.

11 The paper also updates Ministers on the debt to government work programme more generally. Some good progress has been made. However, in some cases, it has been challenging to secure departmental resources and/or new budget funding to advance debt initiatives.

11.1 Successes to date include the Budget 2022 changes to hardship assistance and legal aid, the development of a new housing-related hardship assistance programme, and some minor improvements to information sharing.

11.2 s 9(2)(f)(iv)

s 9(2)(f)(iv)

11.3 MSD is progressing work related to more substantive improvements to information sharing, and changes to recoverable hardship assistance settings will be revisited through future Budgets.

11.4 Kainga Ora and the Ministry of Housing and Urban Development (HUD) continue policy work on options for dealing with rent arrears.

11.5 Further policy work on the development of a common hardship test across government agencies is not recommended at this time.

11.6 The MSD and IR pilot of three-way calls with common debtors has come to an end, and agencies are following up lessons learnt in the pilot.

12 Work on attachment orders has not progressed while the judiciary are considering other proposals affecting civil debt creation.

13 Ongoing review and reporting against the debt policy framework will help determine whether it will be an effective tool for making progress on debt-related issues.

Background

14 Many New Zealanders have some kind of debt to government, and levels of debt are increasing. A total of 762,460 New Zealand residents owe $4.68 billion of combined debt to MSD, the Ministry of Justice (MoJ), and IR. Of these people, more than a quarter (28%) owe debt to two or more agencies, and 6 percent owe debt to all three[2]. Around three quarters of that debt is owed by low-income individuals, many of whom rely on government benefits as their main or sole form of income.

15 While 47 percent of debtors owe less than $1,000, 13 percent owe more than $10,000. More than 85 percent of people who owe debt to government have owed debt for at least one year. More than 45 percent have owed debt for at least four years.

16 Māori and Pacific people are overrepresented in almost all categories of debt to MSD, MoJ, and IR (with Māori comprising 44 percent of those with debt to all three agencies).

17 Both the Tax Working Group and Whakamana Tangata, the report of the Welfare Expert Advisory Group, recommended that the Government look further into issues around debt to government. A cross-agency group of officials was convened in 2019 to consider a cross-government approach to prevent and manage debt. The Cabinet Social Wellbeing Committee (SWC) has agreed that this work programme should have the dual focuses of:

[2] From the Social Wellbeing Agency report *Persistence of debt to government* (November 2022).

17.1 ensuring debt recovery is fair, effective, and avoids exacerbating hardship, and

17.2 preventing debt from occurring so that it does not create future problems for those in hardship.

18 In September 2022, SWC invited Joint Ministers to report back in June 2023 with progress on the debt to government framework, including results from agency consultation and further development of the work programme [SWC-2022-MIN-0170 refers].

19 There are many different causes of debt to government, which can accrue over long periods of time and under a range of policy settings. However, we know that it is driven to a significant extent by income inadequacy and issues with the systems that deliver government supports and collect money from New Zealanders.

20 The Government has made significant investments in improving income adequacy. The Minister for Social Development and Employment's Welfare Overhaul update in November 2022 noted our significant investments across various initiatives to improve the lives of the most vulnerable New Zealanders [CAB-22-MIN-0581.02 refers].

21 These investments have had a tangible impact on the lives of New Zealanders. In April 2023, approximately 356,000 beneficiaries were, on average, $118 per week better off compared to 2017 policy settings as a result of the welfare overhaul. Rates on all measures of child poverty have reduced since 2017/18, fewer households with children report not having enough income for basics, and total incomes are higher for those supported by benefits in 2022 than in 2018, even after accounting for increases to housing and the cost of living.

22 We are also investing in improving the systems involved in the creation of debt to government, for example MSD's Te Pae Tawhiti Transformation Programme will support the sequenced delivery of foundational changes to income support systems through improved information sharing with IR and complementary policy changes [GOV-23-SUB-0016 refers].

23 It is also important to note that not all debt is problem debt. Although we have invested significantly in income and other supports for New Zealanders, the Government cannot afford at this time to write off all debt, or to replace all existing loans with grants. We continue to believe that in the right circumstances lending can be a useful tool to support households. Debt to government will also, in some cases, be a far better option than other types of debt.

24 The Ministers responsible for the debt to government work programme have progressed policy work on key mahi to, for example, make some recoverable hardship grants non-recoverable and reduce the incidence of Working for Families overpayments. Other work completed to date includes:

24.1 work to understand and define the issues, including a series of reports by the Social Wellbeing Agency, and work comparing different agencies' approaches to debt generation and recovery,

24.2 development of portfolio-specific proposals to improve policy settings around government debt, including the Budget 2022 changes to hardship assistance and legal aid, and the development of a new housing-related hardship assistance programme implemented in March 2023 to better assist people to obtain and retain a private rental tenancy, and

24.3 development of an all-of-government policy framework to align government agencies' approaches to debt where appropriate.

Why we are proposing a policy framework for debt to government

25 Collaboration in respect of debt collection is not straightforward. Different debts will often have distinct policy contexts that justify different treatments, and agencies must work within legislative, privacy and resourcing constraints. The proposed framework would encourage alignment of debt management practices across government, while recognising that there is no one-size-fits all approach. Instead, the framework aims to ensure that consideration of debt is factored appropriately into agencies' policy and operational processes. It also provides guidance on good practice in the identification and management of debtors in hardship or at risk of hardship.

26 The framework has three main parts:

26.1 A set of over-arching principles for creating and managing debt,

26.2 A "purpose-centred approach", which classifies debt into different groups according to its policy purpose and discusses how different settings might be more appropriate for some purposes than others, and

26.3 A "person-centred approach", which discusses how to take a debtor's personal circumstances into account, with a focus on the consideration of financial hardship.

27 The framework is not prescriptive. It recognises that decisions relating to debt owed to government must take into account many difficult trade-offs, including the financial, behavioural and administrative impacts of different options.

Consultation on the framework

28 In September 2022, Cabinet agreed that officials would carry out a two-stage consultation on the proposed all-of-government framework for addressing debt owed to government ("the framework"). The first stage of consultation with government agencies was carried out in late 2022. The second stage of targeted external consultation was carried out between 28 February and 6 April 2023.

29 A detailed summary of the feedback we received from external consultation is attached as Appendix Two. Feedback was generally positive. While many groups consulted would like to see a more ambitious approach to policy change, they see the framework as a step in right direction. Respondents also identified areas where they considered government agencies could make policy and operational changes that would mitigate some of the impacts on low-income households, and suggested ways for agencies to work more effectively with financial mentor services.

30 Government agencies generally supported the framework. Agencies echoed much of the feedback from external consultation, with an emphasis on the importance of considering debt in upfront policy design.

How the framework will be implemented

31 The proposal for implementing the framework is that Cabinet formally adopt it as a policy tool. This would require Ministers to analyse any Cabinet submission relating to debt to government against the framework's principles. This is intended to improve the quality of the policy advice around debt and ensure that trade-offs are transparent to Ministers when they make decisions.

32 In terms of driving change, the framework can only be effective to the extent that Ministers choose to give effect to its principles in Cabinet decisions. The framework is forward-looking: there will be no application of the framework to existing policies, except insofar as Ministers agree to do this on a case-by-case basis.

33 To understand the extent to which existing policies may not comply with the framework, Joint Ministers' view is that over time all Ministers should agree to carry out a one-off scan of their agencies' existing debt management policies and identify any inconsistencies. In the first instance, Joint Ministers are proposing to build on their own agencies' work to date and undertake a comprehensive scan of the policies they have in place.

34 Joint Ministers propose to report back to Cabinet after twelve months. The report-back would:

34.1 assess the effectiveness of the framework as a tool to inform policy decisions,

34.2 note any changes in their agencies' debt policies or operations that have been implemented (or are recommended to be implemented) as a result of the scan exercise discussed above, and

34.3 advise on future reporting and evaluation, including a data collection strategy to support ongoing reporting on debt outcomes.

35 The twelve-month report-back will also provide an opportunity for Ministers to feed back lessons from the scan of their agencies and consider whether the debt policy work programme should be extended to a wider set of portfolios.

36 We finally suggest that an evaluation be carried out after three years, and Ministers decide at that point whether to retain the framework or consider alternative approaches. We recommend that the Associate Minister of Revenue and the Inland Revenue department be responsible for the ongoing monitoring, evaluation and updating of the framework as required.

Milestone/Activity	Timeframe
Cabinet agrees to adopt framework	July 2023
Publication on Inland Revenue's website	August 2023
One-year progress report	July 2024
Three-year evaluation	July 2026

Supporting the adoption of the framework with policy change

37 The framework has highlighted variations in approaches to debt management, one of these being that overpayments of government support are treated differently depending on the department who administers them.

s 9(2)(f)(iv) [redacted]

38 s 9(2)(f)(iv) [redacted]

39 [redacted]

40 [redacted]

s 9(2)(f)(iv) [redacted]

s 9(2)(f)(iv) [redacted]

41 s 9(2)(f)(iv) [redacted]

42

43

44

45

45.1 s 9(2)(f)(iv) [redacted]

45.2

45.3

Definitions of hardship across government

46 Last year, we said that officials would undertake work to determine whether the current definitions of hardship are appropriate, and what opportunities there were to improve consistency.

47 In general terms, the concept of hardship refers to exclusion from a minimum adequate standard of living, including a lack of basic necessities. Within legislation that underpins government debt collection, definitions of 'serious hardship' all use broadly similar language to define this term. However, the use in MSD's legislation of the term 'undue hardship' rather than 'serious hardship' reflects a deliberate distinction with regard to the policy context and intent

across systems. The result is that MSD's definition of hardship for the purpose of debt management is more targeted than that of other agencies.

48 We could undertake further work to explore legislative and/or operational changes to more closely align existing definitions of 'serious hardship'. However, alignment of definitions between MSD's income support system and other agencies would either severely restrict the ability of MSD to collect debts or severely tighten the definition of hardship used by other organisations.

49 We, therefore, propose that we do not pursue further work to look at aligning definitions of hardship in the short term.

50 Consultation on the framework has reinforced the need to focus on hardship, and the framework provides explicit support for agencies on how to carry out assessments of hardship. A possible direction for further work would be to focus on improving consistency in the types and formats of information required to assess hardship, to reduce the compliance requirements for individuals.

Update on the debt to government work programme

51 Cabinet last received an update on the debt to government work programme in September 2022. The work programme since then has been focused on developing the all-of-government policy framework. Current workstream updates are outlined below.

Hardship assistance

52 Budget 2022 introduced two initiatives as part of the Hardship Assistance Review, and further advice on the review was provided by MSD at the end of 2022 exploring the amounts, categories, and recoverability of hardship assistance. Changing the recoverability settings for assistance is a powerful tool for providing targeted and specific support to people on the lowest incomes. For example, recoverability settings could be aligned to support Government priorities, such as child or whānau wellbeing. This is in addition to considering the extent to which a cost is foreseeable rather than due to an emergency situation or event beyond the client's control. Potential changes to these settings will be revisited through future Budgets.

Common debtors pilot

53 Following the initial pilot programme of three-way calls between Inland Revenue, MSD and clients with debt to both agencies (which has now come to an end), MSD and Inland Revenue are jointly exploring and implementing a number of lessons learnt, including information sharing opportunities and capability building.

Attachment orders

54 In September 2022 SWC noted that work to improve information sharing for court attachment orders would be reported back on in the next Cabinet report back [SWC-2022-MIN-0170].

55 Since then, the Rules Committee, a statutory body established by Judicature Act 1908, has independently released its report on Improving Access to Civil Justice which includes recommendations affecting civil debt creation and enforcement. Notably, recommendation 15 proposed the introduction of pre-action protocols for debt claims in the District Court. If implemented this would introduce new standards and compliance for claims entering the District Court, which would in turn reduce the number of debts proceeding to enforcement and potential attachment orders.

56 s 9(2)(f)(iv) [redacted]

Information sharing

57 MSD's Te Pae Tawhiti Transformation Programme will support the sequenced delivery of foundational changes to income support systems. In line with its Te Pae Tawhiti business transformation programme MSD is progressing preliminary work to consider whether settings for assessing and charging income remain appropriate, as part of a broader long-term work programme to use pay-day income data from IR so that clients do not need to declare wages.

Social housing rent arrears

58 As at March 2023, Kāinga Ora rental arrears amounted to $19.8m, which is a significant increase compared to the $4.2m owed in rent arrears in March 2020.

59 Managing higher levels of tenant rent debt will require Kāinga Ora to understand their overall financial position — including the extent of any debt to other government agencies. Privacy constraints and systems limitations have prevented any significant progress in this area to date.

60 Te Tūāpapa Kura Kāinga has been scoping the problem of housing-related debt for tenants living in Community and Transitional Housing, and will work with Kāinga Ora and MSD to identify potential next steps.

Overall progress

61 The overall assessment of progress is that Ministers have been supportive of the objectives of this work programme. Since 2017, the Government has made significant investments in various initiatives to improve income adequacy. In some cases, however, this has meant that it has been challenging to prioritise the deployment of new budget funding or existing departmental resources to advance debt initiatives.

62 Reducing debt to government remains an important objective, however, and the debt policy framework and proposed reporting has the potential to be used as a tool to monitor and promote future government progress on debt-related issues.

Financial Implications

63 There are no direct financial implications from the adoption of the debt to government policy framework.

64 Inland Revenue will support the monitoring and reporting requirements of the framework from within existing baselines.

65 s 9(2)(f)(iv) [redacted]

Legislative Implications

66 There are no direct legislative implications from the adoption of the debt to government policy framework.

Impact Analysis

67 There is no requirement for a regulatory impact statement.

Population Implications

68 Some population groups are significantly impacted by problem debt, including Māori, Pasifika communities, women, disabled people and children:

68.1 Māori individuals are overrepresented in almost all categories of debt to the Ministry of Social Development, Ministry of Justice, and Inland Revenue, and are overrepresented in people with debt to multiple agencies (Māori comprise 44 percent of those with debt to all three agencies). Further, Māori are disproportionately likely to be on a low income or in receipt of a benefit, with 22 percent of all Māori working-age adults receiving a main benefit.

68.2 Pasifika communities are also disproportionately represented in lower socio-economic groups, and pacific people are overrepresented in all categories of debt to MSD, MoJ, and IR, and are overrepresented in people with debt to multiple agencies (Pacific people comprise 13 percent of those with debt to all three agencies).

68.3 Women are overrepresented in several categories of debt to MSD (including recoverable assistance and overpayments), MoJ (legal aid), and IR (WFF overpayments), and in some areas of debt across multiple agencies. Women are also more likely to be left with debt following a relationship break down. Further, women make up 68 percent of those receiving a main benefit.

68.4 Children are negatively affected when growing up in households where budgets are constrained by large or entrenched debts.

69 The proposed framework sets out the Crown's obligations under Article Three of Te Tiriti o Waitangi/The Treaty of Waitangi to consider how Māori and the Crown define and measure equitable outcomes in relation to debt management,

and what engagement with Māori is required. Agencies are also encouraged to incorporate a tikanga values perspective in policy development relating to debt, for example by using Treasury's He Ara Waiora framework.

70 The framework also advises agencies to collect data to help them understand debt management outcomes both for Māori and for other affected population groups. Data can inform decisions around what measures might be needed to ensure that everyone has equitable access to debt relief.

71 Engagement with Māori around outcomes is an ongoing obligation. Māori groups who were consulted on the draft framework emphasised that they would like to see ongoing, early engagement from the Crown both in relation to the operation of the framework and in relation to problem debt more generally.

72 As a result of consultation with representatives of impacted population groups, the framework now includes a greater emphasis on:

72.1 the need for more equitable access to debt relief for people who experience barriers to engagement with government agencies, whether through language, mental or physical disability, geographical isolation or inability to use digital services,

72.2 the importance of religious and cultural obligations being taken into account for the purpose of hardship assessment, and

72.3 the need for agencies to put in place specific policies to address debt that is incurred as a result of family violence or economic harm.

73 Adoption of the framework will not in itself have any impact on the population groups currently over-represented in debt statistics. However, if the framework is successful in driving more concrete policy and operational changes to the way debt is created and managed then this should lead to lower levels of debt-related hardship in these communities, and more consistent and equitable debt outcomes.

Consultation

74 The following agencies were consulted on this Cabinet paper: The Department of Prime Minister and Cabinet, Ministry of Education, Ministry of Business, Innovation and Employment, Ministry of Transport, Police, Accident Compensation Corporation, Department of Internal Affairs, Department of Corrections, New Zealand Customs Service, Te Puni Kōkiri, Ministry for Primary Industries, Land Information New Zealand, Ministry of Health, Ministry for Pacific Peoples, Ministry for Ethnic Communities, Whaikaha - Office for Disability Issues, Ministry for Women, Oranga Tamariki, Department of Conversation, Waka Kotahi NZ Transport Agency, the Treasury.

Ministry of Education comment

75 While we are supportive of the proposed Debt to Government framework, we note it is not a good fit for student loans. While it is appropriate that the

framework focuses on alleviating the harmful impact of Government debt on New Zealand households, all Government debt is treated the same and there is no recognition of the hardship or inequities that would occur if debt was not made available in the first place. The Student Loans scheme enables access to tertiary education for all New Zealanders and generates considerable private (e.g. higher lifetime earnings, stronger wellbeing outcomes) and those public benefits that result from a highly educated population. It represents an investment and can more properly be thought of as 'good debt.'

76 We also note that the Student Loans scheme already has several features that seek to alleviate and manage hardship (e.g., student loans for New Zealand based borrowers are interest free, repayments are income contingent and there are hardship provisions for all borrowers who cannot meet their compulsory repayment obligations). Unlike other Government debt, student loan borrowers generally have their entire working life to repay their loan. This means various aspects of the Debt to Government Framework may be more or less appropriate in the context of student loan policy. For example, writing off debt student loan may not be appropriate as it could pose a high moral hazard risk in terms of the repayment behaviour of other borrowers. Also, as the majority of overdue or outstanding debt (around 90%) is held by overseas based borrowers this would have little impact on New Zealand households. A list of external groups who made submissions on the draft framework is included in Appendix Two.

Communications

77 Communications will be co-ordinated by the office of the Associate Minister of Revenue, in consultation with the office of the Minister for Social Development and Employment.

Proactive Release

78 The Associate Minister of Revenue intends to release the Cabinet paper proactively on Inland Revenue's website, subject to appropriate redactions. The information release will also include submissions received during targeted external consultation, and the summary of feedback attached to this paper.

Recommendations

The Minister for Social Development and Employment, the Minister for Child Poverty Reduction, the Minister of Justice and the Associate Minister of Revenue recommend that the Committee:

1 **note** that in September 2022 SWC agreed to consultation on a policy framework for debt to government, and invited the Minister for Social Development and Employment, the Minister for Child Poverty Reduction, the Minister of Justice and the Associate Revenue to report back on progress in June 2023 [SWC-22-MIN-0170 refers];

2 **note** that internal and targeted external consultation have been carried out and a summary of feedback is attached as Appendix Two;

3 **agree** to adopt the all-of-government framework for debt to government attached as Appendix One as a Cabinet policy tool, subject to final editing and formatting for publication;

4 **agree** that Ministers bringing relevant policy papers to Cabinet will include a discussion on whether the proposal is consistent with the principles and guidance in the framework;

5 **agree** that Joint Ministers responsible for debt to government will report back to Cabinet in July 2024 with:

5.1 an initial assessment of whether the framework has been effective as a policy tool to improve advice to Cabinet,

5.2 the results of Joint Ministers' review of their agencies' existing debt policies and operations against the framework, and any changes that have been made or will be recommended as a result;

5.3 advice on future reporting and evaluation, including a data collection strategy to support ongoing reporting on debt outcomes.

6 **agree** that debt to government Ministers bring an evaluation and report back to Cabinet by July 2026 in order for Ministers to decide whether to retain the framework or consider alternative approaches;

7 **note** that ongoing administration of the framework, including the proposed reporting, will be responsibility of the Associate Minister of Revenue and the Inland Revenue department, in consultation with the Minister for Social Development and Employment, the Minister for Child Poverty Reduction and the Minister of Justice;

8 s 9(2)(f)(iv) [redacted]

9 s 9(2)(f)(iv) [redacted]

10 **note** the work programme update in paras 51 to 62, which shows that there have been some achievements but some initiatives have not progressed very far;

11 **note** that no further policy work is proposed on the development of a single all-of-government hardship assessment test.

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Social Development and Employment

Hon Jan Tinetti
Minister for Child Poverty Reduction

Hon Kiritapu Allan
Minister of Justice

Hon Dr Deborah Russell
Associate Minister of Revenue

Appendix 1: A framework for debt to government

A framework for debt to government

Guidelines for agencies managing personal debt owed to government

Inland Revenue
Te Tari Taake

2023

CONTENTS

CHAPTER 1
Introduction and purpose

1.1 Following recommendations from the Welfare Expert Advisory and Tax Working Groups, a cross-agency group of officials was convened in 2019 to consider an all-of-government approach to prevent and manage personal debt that people owe to government agencies. The work's overarching goal is to reduce hardship for families and individuals and aims to achieve a fairer and more consistent approach to debt.

1.2 The framework has been developed by Inland Revenue, the Ministry of Social Development, the Ministry of Justice, and the Department of the Prime Minister and Cabinet.

Background

1.3 Debt can be a standard feature of financial life for many households and can play an important role in smoothing household expenditure, acquiring necessary assets or investing in the future. Moreover, certain types of debt can act as an investment in the individual (e.g., student loans), benefiting the individual and society. Not all debt to government is problem debt — in the right circumstances it can support wellbeing outcomes, and may often be a preferable alternative to private debt.

1.4 However, debt can also become a problem when servicing it becomes an unaffordable or persistent burden. This problem debt can have a significant impact on individuals and whānau in hardship, contributing to financial hardship, stress, poor physical and mental health, stigma, and social exclusion.

1.5 There is a lack of consistency in the way debt to government is administered. Government agencies have widely differing approaches to managing debt depending on factors such as:

- Legislative requirements,
- Level of resources available for case management,
- Access to information needed to verify an individual's financial situation,
- A variety of historical policy and pragmatic reasons which may appear unclear or inconsistent from the perspective of an individual with debts to multiple agencies.

1.6 The focus of this framework is problem debt and the lack of consistency in how government treats debt owed to it by individuals. It seeks to balance the benefit of access to credit with the prevention of problem debt. And further, to balance having a coherent system based on the policy purpose of the debt with fair consideration of the individual's circumstances.

1.7 To achieve this, the framework explores the various types of debt owed by individuals to government, seeks to categorise these, and discusses how they might ideally be treated, taking both policy context and individual circumstances into account.

1.8 The framework is intended to be used to help agencies design, implement and evaluate policy and operational processes which relate to the creation, collection or write-off of debt.

Summary of proposals

1.9 The framework consists of three parts.

- Part 1: Overarching principles for creating and managing debt.

- Part 2: *The purpose-centred approach* — this section categorises different types of debt according to their underlying policy objectives, and outlines how the debt could be appropriately managed for each category (that is, policy settings).
- Part 3: The *person-centred approach* — this section outlines how agencies might collectively take into account an individual's personal circumstances (including amounts owed to other government agencies) and their ability to repay the debt both when the debt arises (if appropriate) and during the life of the debt.

1.10 The objective is a framework that guides:

a) how debt could be categorised according to its underlying policy objectives

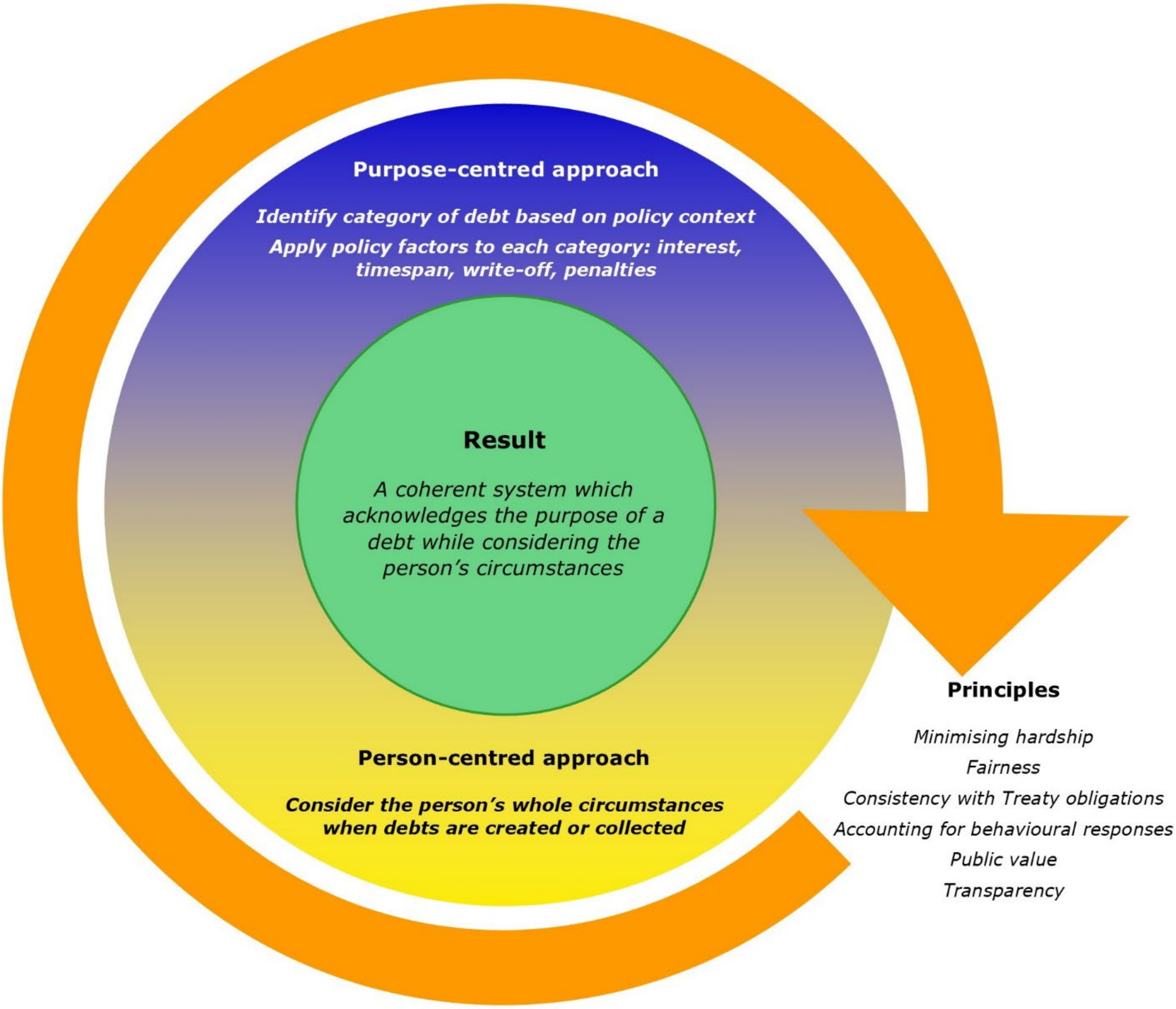
b) how each category of debt could be managed (note that these ideal treatments are general, and deviations could be justified)

c) how agencies should consider and respond to hardship when setting their debt collection policies

d) how agencies assess whether a person's debt repayments are sustainable given their financial and personal circumstances, including whether the person is eligible for other, non-repayable income support and whether they owe debts to other government agencies

e) factors to consider when a debt is created, including whether an alternative would be preferable (for example, a grant rather than a loan).

The framework creates a comprehensive approach to debt policy creation and implementation



CHAPTER 2
Principles for creating and managing debt

Principles

2.1 These principles represent overarching values that apply generally to all categories of debt.

2.2 It is intended that the principles below would be considered at all stages of the debt policy and implementation cycle, including before a debt is created. The principles will sometimes conflict and need to be traded off against one another. Where appropriate, agencies should make these trade-offs explicit.

- **Minimising hardship** — The creation of a debt in the first instance, as well as the terms of its repayment should not place people into hardship or exacerbate existing hardship. Agencies should administer debt in a way that is appropriate for the individual's circumstances as a whole, including whether the longer-term consequences of taking on further debt will have a negative impact on that person or their dependants.

- **Fairness** — The treatment of debt, including creation, settings, management and relief, should be just and impartial across individuals and agencies. Where appropriate, an individual's relevant circumstances should be considered and accounted for. Sometimes that may mean that different approaches are needed, for example, to ensure that particular population groups receive the same access to debt relief measures as the general population. Approaches to debt should not be applied arbitrarily but should be consistent, with any different approaches justified by specific needs.

- **Consistency with Treaty obligations** — In Article Three of the Treaty of Waitangi the Crown promises that its obligations to New Zealand citizens are owed equally to Māori. There is an implicit assurance that rights would be enjoyed equally by Māori with all New Zealanders, and this may sometimes mean that special measures are needed to attain that equal enjoyment of benefits. Agencies should consider how Māori and the Crown define and measure equitable outcomes in relation to debt management and what engagement with Māori is required. Agencies should also incorporate a tikanga values perspective in policy development, for example by using Treasury's *He Ara Waiora* framework.

- **Accounting for behavioural responses** — Where appropriate, positive behavioural outcomes should be incentivised (for example, sustained repayment is incentivised). Further, collection mechanisms, such as write-offs or policies relating to recoverable versus non-recoverable support, should not create perverse incentives (that is, they should not incentivise individuals to incur debt because they expect not to have to repay it).

- **Public value** — The cost of administering and collecting the debt, and impact on the debtor's wellbeing of pursuing or maintaining the debt, should be weighed against the actual revenue collected and any other public benefits. When a person is unable to repay a debt, and government resources could be better used elsewhere, it may be more efficient to provide relief, such as through write-off provisions. Agencies should also consider public value in creating a debt where collection may not be viable due to hardship.

- **Transparency** — The administration of debt should be simple and clear (both for individuals and administering departments). Individuals should understand how the debt arose, what is driving the recovery approach, and what their options are in case of hardship. This principle should be reflected in all communication with debtors and potential debtors by using plain language and accessible communication. Throughout the whole process, options should be available to assist those who require help communicating and care should be taken to ensure that they understand how the debt has arisen, what their rights and obligations are and what options are available if they require assistance.

CHAPTER 3
Purpose-centred approach

The types of debt owed to government

3.1 Debt to government arises as a result of different government policies that are intended to achieve different outcomes for New Zealanders. We have organised debt into the following categories according to the underlying policy settings which give rise to the debt:

a) **Crown Revenue** — Revenue owed to the Crown.

b) **Overpayments of Government Support** — Debt caused by incorrect or late information about eligibility or assessment. This type of debt is unintentional but arises due to information mismatch. The information error or lag may be on the part of either the individual or the government agency.

c) **Loans or Repayments for Services Provided by the Crown** — Loans or repayments for services provided to individuals who meet specific criteria. Repayment is expected and agreed by the recipient from the outset.

d) **Government-administered debt between private parties** — Legal obligations between individuals that are administered by government agencies.

e) **Penalties or Infringements** — Penalties or infringements for non-compliance with legislative rules. They are intended to produce a compliance behavioural response.

f) **Accrued Interest** — Interest is charged as compensation for the lost time value of money on overdue payments to Government agencies, fairness to other people who pay obligations on time, and ensuring there is no behavioural incentive for delaying payment. Interest is considered a separate category because, once added to a debt, interest may be treated differently to principal.

g) **Intentional non-compliance** — Any debt that is the result of the intentional exploitation of systems, policy and procedures to achieve a wrongful gain. This category of debt is defined by individual behaviour rather than by policy context, which means debts from other categories which are the result of this behaviour will fall into this category.

Recommended arrangements for creating and managing debt

3.2 Officials have recommended treatments for each category of debt. These are intended to improve consistency across agencies. We look at four different policy factors for each category:

- **Interest** — Is it appropriate to apply interest to this type of debt?
- **Rate of repayment** — What is the appropriate rate of repayment for the debt, considering its intended timespan? What limits should be placed on repayment amounts? Is it appropriate to provide for repayment extensions or suspensions, and under what conditions?
- **Write-off** — How appropriate is it to write off this category of debt, and for what reasons? If write-off is not appropriate, should the debt survive bankruptcy?
- **Penalties** — Is it appropriate to apply non-payment penalties?

Recommended treatments

Recommended treatment for Crown revenue

3.3 Examples of Crown revenue are income tax liabilities, customs revenue and ACC levies.

3.4 Taxes, fees and levies are necessary to fund government services and spending. As individuals derive benefits from the state (such as those funded through taxation), they incur certain duties — including paying taxes, fees and levies.

3.5 Effectively responding to non-compliant taxpayers is important not simply to meeting government's revenue targets, but more fundamentally to maintaining the integrity of, and public confidence in, the tax system.

Interest	It is appropriate to apply interest to incentivise repayment, to compensate the Crown for the time value of money and for fairness to other people who pay on time.
Timespan	Payment extensions can be agreed with the objective being to maximise recovery and timeliness in a way that maintains integrity.
Write-off	Relief should be considered when an individual faces financial hardship. This could be through extension, write-off, or a combination of both. The cost to the Crown of collecting a debt may also be a consideration.
Penalties	Penalties are a helpful compliance tool but should be targeted at intentional non-compliance as opposed to inability to pay.

Recommended treatment for overpayments of government support

3.6 This category refers to overpayments of transfer payments from the government to individuals. Examples include overpaid Working for Families tax credits and benefit overpayments. The ideal treatment is governed by the fact that these payments are primarily intended to provide people with financial assistance when they need it.

3.7 This type of debt is unintended. It typically results from inaccurate or late information about eligibility or assessment, or delays in processing this information (this is different from instances of intentional non-compliance). Many recipients will have limited ability to make repayments at the time the debt arises or in the future.

3.8 A first priority should be to consider the risk of overpayments when designing policy and operational processes, but this may need to be balanced against the goal of providing timely assistance. More complex policy design can create a higher incidence of debt — for instance, a highly targeted payment may support other policy outcomes but will have more opportunity for debts to arise than a universal payment. This means that complexity in these policies should be weighed against the likelihood of creating debt, and the trade-off should be appropriately justified.

Interest	Interest should not be charged, as this is likely to undermine the income adequacy objective of the original payment. Interest should not be used to incentivise repayment, which should instead be guided by the debtor's ability to pay.
Timespan	Ability to pay (whether driven by hardship or other circumstances) is the key consideration, and a longer

	timeframe may be appropriate provided that this does not lead to the accumulation of debt.
Write-off	Relief should be considered when an individual faces financial hardship. Further, a lower threshold for write-off than other categories of debt may be appropriate, especially repayment may undermine income adequacy. This needs to be balanced against the behavioural incentives to provide timely and accurate information to the government. If the overpayment is due to administrative error and received by an individual in good faith, including agency failure to act on information provided by the individual, write-off should be the default response. There should be a robust process to identify when a debt is the result of administrative error, including the ability for an individual to instigate this process.
Penalties	Penalties should not generally be applied. They should be reserved for intentional non-compliance.

Recommended treatment for loans or repayments for services provided or funded by the Crown

3.9 This category refers to loans or repayments for services provided or funded by government to individuals who meet specific criteria. Examples include legal aid debt, and Kainga Ora rental arrears.

3.10 The government may provide, guarantee or subsidise loans to individuals or provide or fund services so that people can take up financial assistance or access services at the time they need it. This will be conditional on meeting certain eligibility criteria and assumes that the person is likely to have future ability to service the loan or pay for the service provided. The contractual nature of these agreements means that it is understood between the lender or provider and the recipient that repayment is expected. Government agencies should ensure appropriate information is available and accessible to borrowers so that they are fully informed of repayment expectations.

3.11 That said, some services which fall in this category are targeted towards low-income individuals. While repayment is still the default assumption for these types of debt, given the intended recipients, a greater degree of flexibility in the terms of repayment may be appropriate.

3.12 Repayable assistance can be a useful way to support low-income households to smooth household expenditure or acquire necessary assets. However, when repayable assistance is being considered, there should be a point in the process where the administering agency considers whether creating a new debt is in the best interests of the person. At a broader level, government should consider whether it is appropriate for certain forms of assistance to be repayable at all.

Interest	May be applied but is unlikely to be appropriate for financial assistance that is specifically targeted to lower-income households.
Timespan	It may be appropriate to extend or defer repayment in case of hardship, especially for financial assistance that has been specifically targeted to lower-income households.
Write-off	May be appropriate in case of hardship. The intended duration of the debt should be factored into the write-off policy. But the contractual nature of these agreements implies that the default position is that the person has an obligation to repay the debt.

Penalties	May be appropriate in case of non-compliance. Where hardship exists however it may be appropriate to write off penalties to facilitate repayment.

Recommended treatment for Government-administered debt between private parties

3.13 This category includes legal obligations between individuals that are administered by government agencies, such as child support owed to the receiving carer.

3.14 The government might intervene to administer a debt owed between private individuals, either because it has ordered one party to pay the other or because the debt (though agreed upon independently by each party) is considered important enough that the state must ensure it is honoured.

3.15 Though the state acts to enforce these debts, the amounts are not owed to the government, and the government therefore has limited influence on the creation of this debt.

Interest	There is an argument to apply interest to incentivise payment and to compensate the third party for late payment, but this should take into account the risk of debt accumulation, potential behavioural impacts and increased debt collection costs.
Timespan	In general, debt should be collected in accordance with the third-party arrangements or as soon as reasonably possible. Hardship can be taken into account when considering delaying repayment unless inconsistent with policy intent.
Write-off	Because these debts are not owed to the government, they should only be written off with the permission of the individual or entity to whom the debt is owed, or in cases where the debt could not possibly be collected (for example, the debtor is deceased).
Penalties	It is appropriate to apply penalties to this type of debt to help enforce compliance and recover some of the cost of collection. Penalties are typically owed to the government, not the third party, so hardship may be more freely considered for delaying or cancelling the collection of penalties.

Recommended treatment of interest accrued on unpaid debt

3.16 This category includes amounts charged at a particular rate for the use of money lent, or for delaying the repayment of a debt. An example is use of money interest on overdue tax. Interest is applied for three reasons:

- To compensate for the lost time value of money on overdue payments to government agencies.
- Fairness to other people who pay debt on time.
- Ensuring there is no behavioural incentive to delay payment.

Interest	New interest amounts could be applied to the existing accrued interest portion of a debt; however, this should represent actual costs incurred and agencies should take into account the potential consequence of compounding debt.
Timespan	Interest will typically be collected with the same urgency as the original debt.

Write off	Relief of interest (separate from principal) may be considered where it will facilitate collection of the original debt (for example, as part of a repayment arrangement) or in case of hardship.
Penalties	Penalties should not be applied to late interest payments.

Recommended treatment of fines and infringements

3.17 This category refers to penalties imposed in response to non-compliance with legislative rules. Examples include tax shortfall penalties, and penalties added to benefit debt arising from fraud. Penalties and infringement notices are applied for two reasons: as punishment for non-compliance, or to produce a behavioural response. In either case a penalty or infringement notice might also act to recoup some of the cost of the offence.

3.18 The ideal treatment of a fine or infringement notice depends on whether it is intended to punish or deter; if both, the relative balance between the two.

3.19 A penalty that is intended to punish implies a generally high bar for write off and a generally high urgency for collection.

3.20 A penalty that is intended to deter should not reduce people's actual ability to comply (that is, people will not comply if they cannot) or their desire to comply (for example, if repayment seems unrealistic). This implies that write-off may be appropriate, especially in cases of hardship as may a longer timeframe to allow repayment arrangements.

3.21 Similar considerations apply when considering whether to create this debt, as well as what alternative approaches may be appropriate to have the desired punitive or incentive effects — and whether other approaches may have more significant detrimental effects than the imposition of the penalty itself. It should also be noted that separate legislative provisions may govern the amount and repayment guidelines of this type of debt, and agencies may have less discretion in way it is administered.

Interest	It may be appropriate to apply interest to fines and penalties where there is a valid reason. However, a key principle of the rule of law is the ability for an individual to be able to determine what they could be liable for. It is important that interest applied to a fine and/or penalty does not undermine this principle.
Timespan	Timely collection is important for penalties with punitive intent; but for penalties with a behavioural objective, settings should be more responsive to an individual's financial situation.
Write-off	Whether it is appropriate to write off a penalty or infringement will depend partly on its purpose: there is a higher bar for writing off penalties with punitive intent as opposed to those with a behavioural objective. Where there is a behavioural objective, write-off ought to be considered against the gravity of the behaviour being disincentivised and the value of maintaining the disincentive instead of writing off debt. Relief of penalties (separate from principal) may be appropriate in some cases to facilitate collection of the original debt.
Penalties	N/A

Ideal treatment of debt arising from intentional non-compliance

3.22 This category includes any debt that is the result of intentional non-compliance, which is the intentional and deceitful exploitation of systems, policy and procedures to achieve a wrongful gain (such as when a person has deliberately delayed providing relevant information to obtain a welfare payment they are not entitled to). This category of debt is defined by individual behaviour. That is, debts from other categories will be classified as this category of debt if they are the result of intentional non-compliance.

Interest	The individual should not benefit from their behaviour, so it is appropriate to apply interest to this type of debt to compensate the government for the time-value of the debt and to incentivise prompt repayment.
Timespan	As for the reason above, it should be collected as soon as reasonably possible.
Write-off	Generally, this type of debt should not be written off, except in cases where collection would be impossible (for example, the debtor is deceased).
Penalties	It is appropriate to apply penalties to this type of debt to ensure compliance and as a punishment for non-compliance.

CHAPTER 4
Person-centred approach

4.1 This 'person-centred' approach places the individual and their family at the centre of decision-making when debts are created or collected. This is to ensure that their whole set of circumstances (including debts owed across Government) is considered when debts are created or collected. This approach is intended to ensure that the treatment of debt is appropriate, especially for those in hardship or at risk of hardship.

4.2 This is intended to support the general principle that creation or recovery of a debt should not place the individual and their family into hardship or exacerbate existing hardship. This principle promotes equity and efficiency: when a person is unable to repay their debt, the collection process can create and exacerbate stress for the individual at the cost of government resources (which could be invested elsewhere), outweighing the amounts recovered. This problem is multiplied if a person owes debts to several government agencies.

4.3 The policy-centred approach and the person-centred approach are intended to work together, with both having an influence over the outcome. There may be instances when the policy intent underlying the creation of a debt (e.g. the imposition of a penalty) conflicts with the obligation to ensure a person or their family are not placed into hardship. Just as policy settings for managing debt may need to have some flexibility to respond to individual circumstances, hardship provisions may also need to be applied differently depending on the purpose of the debt. In these cases, the trade-off should be explicitly considered.

4.4 In some cases, a more flexible approach to hardship may deliver worse outcomes than a uniform approach for groups who are less well equipped to advocate for themselves. Agencies must take care that taking a person centered approach does not create barriers which exclude or disadvantage some people.

4.5 In taking a 'person-centred' approach to debt, it is recommended that agencies:

a) Consider the potential for policy alternatives to debt creation.

b) Have policies in place for debt relief measures, including write offs, repayment plans or deferral. Further, agencies should consider how to support individuals who have more difficulty accessing relief.

c) Make decisions about debt relief in the context of a comprehensive hardship assessment. This should include taking into account other debts that might already exist, which might require considering whether to enter into information sharing agreements with other agencies. It should also involve careful consideration of all relevant information a department holds for the individual, such as debts relating to other products or services.

d) Consider how operational discretion can be supported by training and guidance to ensure consistency of treatment, and accessibility.

e) Have policies in place around when to refer debtors to financial capability support services or other services (including, where relevant, advocacy and dispute resolution services or specialist services that can support safety and wellbeing for victims of abuse).

f) Undertake an assessment of whether or not debtors are receiving their full and correct entitlements.

4.6 As with the purpose-centred approach, the person-centred approach is not intended to be prescriptive. Agencies should consider the recommendations in this framework, but they may need to take into account other policy or operational objectives, including any legislative constraints.

Assessing Hardship

4.7 Assessing hardship is about assessing the extent to which an individual's or household's material living standards are below a minimum adequate level and they are going without basic necessities. Hardship operates on a continuum of severity, with more serious hardship being of greater concern.

4.8 When assessing hardship, the whole of a person's circumstances must be considered. There are a range of factors which the assessment should consider:

- Can the person afford basic living expenses for themselves and any dependants (for example, accommodation, basic household expenses, necessary asset purchases etc.)? Are dependants at risk of being placed into hardship?
- Does the person have other unavoidable and necessary costs (for example, children's education costs, medical treatment for self or dependants, necessary vehicle repairs for a vehicle used for work or to enable the care of dependents etc.)?
- Has the person experienced unforeseeable costs (for example, unexpected medical costs)?
- Given the private and government debt that the person owes, is their debt position sustainable or is debt growing in an unmanageable fashion?
- What would be the financial impact on the household or wider whānau of any decisions made in relation to the debt owed by the person, including possible opportunity costs?
- What cultural expectations are present for the individual in terms of supporting wider whānau, or contributing to religious or cultural obligations?
- Is it likely that the person will experience long term necessary and unavoidable costs (for example, someone with a disability or a long-term health condition)?
- Is the debt caused by a partner, ex-partner, family member or caregiver who has coercive control over the person's finances? Is the person able to make independent and autonomous decisions about their finances? Is the debt adding to entrapment for someone experiencing family violence or abuse?

4.9 An assessment of hardship should consider the resources available to them. Consideration should include:

- The person's sources of income.
- Whether income is volatile or will change over time.
- What assets a person has available to help meet the debt.

Taking hardship into account in decision-making

When creating a debt

When an agency can choose to create a debt

4.10 When an agency has discretion to create a debt (e.g., granting a loan), the agency should be satisfied that the debt can be repaid over time, without creating or exacerbating hardship (see 4.14 below), and that the debt is in the best interests of the individual.

4.11 This is especially important when loans or recoverable grants for essential expenses are offered to households already determined to be in serious hardship. In these instances, alternatives to recoverable assistance could be considered, such as providing assistance as a non-recoverable grant.

4.12 However, such alternatives may not be available or appropriate. A recoverable loan may still be in the individual's interests if they have a need that is immediate, essential and significant. Agencies should consider whether the provision of assistance is in someone's best interest and the trade-offs this may involve.

When an agency cannot choose whether to create a debt

4.13 Sometimes a debt will be created automatically (for example, when an overpayment is discovered or when imposing a fine for an offence).

4.14 The process for imposing infringement fees for example is typically governed by legislation or regulation, leaving agencies no discretion to consider hardship at the time the fee is imposed. In these situations, it is only likely to be practicable to consider hardship more generally when the opportunity arises to review infringement settings.

4.15 In the case of overpayments, if a person has been proactive in contacting the agency before the agency identified the debt and cooperative in providing information, a more lenient approach may be considered.

When determining the rate and method of debt recovery

4.16 When determining the rate and method of any debt recovery, agencies should consider the impact of any potential recovery arrangements on an individual's financial position, and whether and to what extent it would create hardship for them or any dependants. It should be noted that there are existing provisions for some types of debt collection which aim to protect against hardship (for example, the Summary Proceedings Act sets out a protected earnings rate to restrict deductions on income).

4.17 Where hardship may be a factor, the agency should carry out a hardship assessment. This assessment should be as comprehensive as practicable, taking into account the size and likely duration of the debt, the costs to the agency, and the costs to the individual providing the information It should account for both immediate and longer-term impacts on the debtor. It should consider:

- *The current financial circumstances of the person* — this includes considering the individual's income, costs, and assets, as well as their existing level of debt (from all sources, including other government agencies, any debt owed to local government and all private debt).
- *The effect that the rate and method of recovery will have on the ability of the person to support themself and any dependants* —repayment should be sustainable and leave enough for the individual's living expenses and any other debt repayments; it should not cause undue hardship to the individual or any of their dependants (unless there are competing policy considerations that must take priority over this principle, such as a child support liability).
- *The likely impact on the person's circumstances and level of hardship over the longer term* — repayments should be structured in a way that means the individual can eventually pay down the debt, including any interest payments and penalties that are attached. Consideration should be given to whether repayment settings restrict their ability to improve their circumstances (for example, if settings mean that an increase in income would be offset by higher debt repayments).

4.18 Agency hardship assessment should be designed with enough time and care to enable the individual to disclose all relevant information.

When considering whether to provide debt relief

4.19 *Hardship as a basis for relief (that is, write-offs or deferral of collection)* — beyond any initial assessment of hardship, hardship relief should be available for consideration as people's circumstances change. If a person is experiencing hardship, recovery of the debt could be reduced or deferred until they are in position to start repayments; or the debt could be written off (although the potential to create perverse incentives should be considered carefully).

4.20 The purpose-centred approach provides guidance on the appropriateness of deferral and write-off for each category of debt (*refer to the write-off section of the table within each of the recommended treatments*). However, it should be noted that the intended timeframe of a debt is relevant to what form of relief is appropriate: it might be more appropriate to write-off (defer collection of) of a debt that is intended to be short-term (long-term).

When trying to influence behaviour

4.21 Some types of debt are imposed by government to disincentivise certain behaviours, for example, a penalty for non-compliance. In these cases, some degree of financial discomfort forms part of the policy intent in order to discourage the individual from repeating the behaviour (breaking the law, late filing of a tax return, committing fraud).

4.22 Hardship may be a side-effect of the financial penalty being imposed but is not the intention. When hardship occurs because of these policies, achieving their policy intent causes a trade-off against the objective to reduce hardship.

4.23 In these cases, options should be considered to mitigate this trade-off. For instance, the severity of any financial penalty will vary according to the financial circumstances of the individual, so it may be possible to reduce the penalty for individuals in hardship while still achieving the same level of deterrent.

4.24 Or, where an agency has discretion, non-financial penalties could be applied as an alternative; or more discretion could be allowed in terms of when hardship relief may be appropriate (for example, if that individual has children in their care who may be adversely affected by a decrease in household income).

Supporting debtors in hardship

4.25 High or persistent debt can cause psychological stress. It may affect an individual's willingness or capacity to engage with government agencies. Debt-related communications should recognise this by using plain language and keeping the communication as simple as possible. Agencies could also consider what communication channels may work best for certain customer groups. Throughout the life of the debt, individuals should be able to understand how the situation has arisen, what their obligations are, and where to go if they need help.

4.26 Agencies should also consider what other support might be needed by clients with problem debt, such as for example referring clients to services that can:

- provide financial or budgeting advice
- assist in restructuring private sector debt
- help individuals to interact with other government agencies.

Understanding the needs of groups most affected by debt

4.27 Some population groups are disproportionately represented in debt statistics, including Māori, Pasifika communities, women, disabled people and children. Māori individuals are overrepresented in almost all categories of debt to the Ministry of Social Development, Ministry of Justice, and Inland Revenue, and are overrepresented in people with debt to multiple agencies[1] and in low-income households[2]. Pasifika communities are also disproportionately represented in lower socio-economic groups, while women are more likely to be left with debt following a relationship break down. Children are also negatively affected when growing up in households where budgets are constrained by large or entrenched debts.

4.28 Consistent with the Crown's obligations under Article Three of the Treaty, agencies should engage with Māori to understand how Māori and the Crown define and measure equitable outcomes in relation to debt management and whether special measures are needed to reach those outcomes. Agencies should incorporate a tikanga values perspective in policy development, for example by using Treasury's He Ara Waiora framework.

4.29 Agencies should collect data to help them understand debt management outcomes both for Māori and for other affected population groups. Data can inform decisions around what measures might be needed to ensure that everyone has equitable access to debt relief.

4.30 For other ethnic communities, it is important that the whole of the debt process is understandable: from the terms under which a debt was established, right through to ensuring that financial mentoring services are accessible. Translation services and clear communication are essential. Religious affiliations and cultural beliefs may also affect various aspects of debt management and agencies should ensure clients are enabled to communicate these.

4.31 For those individuals living with a disability, there needs to be consideration of what equitable outcomes look like for this group, recognising that they may have additional costs or have difficulty improving their financial position due to factors beyond their control. Support should be accessible for these individuals in order to ensure they are able to make informed decisions around debt.

4.32 Debt may sometimes be the result of economic harm. Agencies should ensure that they:

- Understand the signs of family violence and know how to support customers, including a referral system to expert support services,
- Avoid requiring evidence of family violence, and avoid requiring repeat disclosure of circumstances,
- Have a policy on allocation of debt in cases of family violence, and
- Have effective processes in place to protect information, including between account holders if necessary.

Working with financial mentors and other intermediaries

4.33 Financial mentors is a one-on-one service focused on helping people, families, and whānau with their finance. Agencies should consider when to refer clients to financial mentors. A list of useful contacts is attached as Appendix 1.

4.34 Financial support is not necessarily a solution to problem debt in itself but has the ability to provide individuals and whānau with the skills and capabilities to better

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[1] Māori comprise 44 percent of those with debt to all three agencies.
[2] 22 per cent of all Māori working-age adults are likely to be on a low income or in receipt of a main benefit.

navigate future financial and debt-related decisions. Financial mentors can be helpful during a hardship assessment process to help communicate the individuals' situation to agencies.

4.35 Government agencies should look for opportunities to work in partnership with kaupapa Māori and other culturally specific services, to reduce barriers to accessing support for those most in need, and to address the primary drivers of debt.

Appendix 1

4.36 MoneyTalks is a free financial helpline that provides advice to people in difficulty and connects them with financial capability services in their community.

4.37 Although the services provided by MoneyTalks tend to be targeted towards clients who hold high interest and penalty bearing debts, such as those from short-term lenders, government agencies may find a benefit in referring clients who hold debt with them to MoneyTalks.

4.38 The MoneyTalks website provides links to the following service providers:

- Financial mentor services are listed at https://www.moneytalks.co.nz/find-help-now/
- Other service provides are listed at https://www.moneytalks.co.nz/our-partners/

Appendix 2: Summary of feedback from external consultation February – April 2023

1. Targeted external consultation on the draft debt to government framework ran from 28 February to 6 April 2023.

2. Officials from the debt to government working group held online or in-person meetings with:

    - Social Service Providers Aotearoa
    - The Fairer Futures Collaboration
    - DebtFix
    - The Disabled Persons Assembly
    - Te Tihi (a Whānau Ora group from the Manawatū)
    - Inland Revenue's Māori Advisory Panel
    - National Building Financial Capability Charitable Trust (FinCap)
    - The National Beneficiaries Advocacy Consultative Group, and
    - The Ministry of Social Development's Māori Reference Group and Pacific Reference Group.
    - Ngāpuhi representatives

3. Written submissions were received from 12 non-government organisations:

    - The National Beneficiaries Advocacy Consultative Group
    - Citizens' Advice Bureau
    - SuperGrans
    - Methodist Alliance
    - National Building Financial Capability Charitable Trust (FinCap)
    - Financial Services Federation
    - Kore Hiakai Zero Hunger Collective
    - Good Shepherd
    - Dunedin Budget Advisory Service
    - New Zealand Council of Christian Social Services
    - Family and Financial Solutions Trust
    - Salvation Army

Overarching themes

4. Every submitter emphasised that debt to government is an important issue. We heard that the creation and management of debt by government agencies causes significant financial and emotional hardship for lower income families. Most respondents would have liked to see more ambitious debt relief proposals (one submission called the framework "uninspiring"), but accept this framework is a first step in the right direction. At a policy level, feedback focused on overpayments, recoverable grants, and legacy debt (debt which has existed for a number of years). At an operational level, feedback focused on equitable access to services, consistency and information sharing.

5. Submitters made it clear that even within existing policy frameworks government agencies can do better. While many of the policy suggestions were outside the scope of this framework, there were many suggestions for operational improvements that may be able to be implemented at relatively modest cost.

6. Submitters also emphasised the need for stronger accountability for implementation of the framework. They wanted to see ongoing reporting on compliance with the framework and a data collection strategy that would underpin reporting on outcomes.

Detailed feedback and recommendations for government

Poverty

7. Some organisations advocating for poverty relief and social justice consider almost all debt to government is due to income inadequacy. For them, the existence of debt to government — in particular, debt that is owed to agencies providing social assistance — is fundamentally unjust.

Suggestions to alleviate hardship:

- Raise incomes for all so that families do not need to borrow for essential expenses
- Simplify the benefit system – increase the use of universal benefits and/or consolidate means-tested benefits into a single package
- Adjust abatement thresholds automatically in line with minimum wage and/or benefit increases
- Make permanent the high-trust model that was used during COVID
- Write off all beneficiary debt; or (see below)
- Write off overlapping, persistent and disproportionately high whānau (individual and family) debt
- Make all hardship assistance non-recoverable, and
- Never charge full market rate for social housing.

The impact of debt on Māori

8. We heard that debt (including intergenerational debt) is a huge problem for many Māori communities. Many of the issues raised more generally in this feedback summary are experienced disproportionately by Māori and were strongly echoed in our consultation sessions with iwi and Māori representatives. We received feedback asking that the framework explicitly reference Te Tiriti o Waitangi/The Treaty of Waitangi clauses and principles and show how these are honoured in the policy proposals. Ngāpuhi noted in addition that officials should understand the relationship it has with

Te Tiriti and He Whakatupuranga, as it is not the same as other iwi. We also heard that engagement with Māori should occur earlier in the policy process, and engagement on the framework specifically should be an ongoing commitment. Consultation with Māori also highlighted the extent of financial obligations across extended families, and a view of debt as a collective responsibility. Suggestions to improve Māori outcomes in relation to debt to government:

- Make the framework a living document, with Māori engagement part of the ongoing process of improvement,
- Measure Māori outcomes in relation to debt, and hold decision-makers accountable for improving those outcomes,
- Support iwi and Whānau Ora providers that wish to pilot innovative solutions to provide debt relief or debt resolution,
- Collect and provide data by ethnicity/region to iwi and hapū so that they can use this to best assist their own people,
- Consider the impact of rural communities' isolation on low-income households, particularly the compounding effect of lack of access to public services, higher incidence of digital exclusion and difficulty meeting government requirements. For example, some rural addresses do not 'exist' on the NZ Postcode database which has a flow-on effect for proof of identity/address. This can prevent access to banking and other services.
- If government agencies create the debt, they should be part of an investment in a solution to build financial resilience, for example:
  - An incentives and monitoring trial involving writing off a percentage of debt per month if a certain milestone has been achieved. This may also involve setting up a whānau fund that whānau members need to invest in at regular intervals.
  - Funding for hapū and iwi-led financial education programmes or wānanga, leading to likely increased participation and success.
  - Providing whānau access to an online budgeting service (for example, ClearDebt, Total Money Management) that is transparent and simple to use.

Balancing income adequacy and debt

9. Some social support agencies took a more equivocal position in relation to debt. They felt that debt sometimes served an important purpose (for example, by allowing low-income households access to credit). We received a lot of feedback around recoverable hardship grants, with many respondents feeling that these have become too biased in favour of recoverable assistance, leading poorer families into debt traps. Respondents felt that a more lenient approach to enforcement was needed to help low-income households manage their finances.

Suggestions to improve the balance between income adequacy and debt:

- Introduce a standard four-week grace period to provide change of circumstance information for all benefits,
- Ensure that hardship grants for essential ongoing expenses are not made recoverable,

- Protect main benefit income against automatic debt repayments (i.e., no MSD debt repayment deductions from benefits), and
- Prevent courts from agreeing attachment orders on benefit income requested by third parties, and improve processes around attachment orders to ensure relevant information is put before the courts.

Legacy debt

10. A number of submissions wanted to see better solutions for resolving legacy (aged) debt, including when the debt has arisen as a result of fraud (i.e., in cases where standard write-off policies may not apply). They felt that the proposed treatment of fraudulent debt in the framework is too severe. They commented that people sometimes need to be able to make a fresh start, and legacy debt can hinder the return to work (debt repayments can result in very high effective marginal tax rates), as well as being a psychological burden.

Suggestions for dealing with legacy debt:

- Relax write-off provisions for legacy debt; introduce waivers for debt once it reaches a certain age and is unlikely to be repaid
- Include the possibility of write-off for legacy debt in the fraudulent debt category, and
- Establish a "review panel" including government agency and financial mentor service representatives, to consider and resolve difficult cases of legacy debt.

Transparency

11. Agencies have made a lot of effort in recent years to improve the accessibility and quality of information on their websites. However, the system of government services is complex and many households still struggle to understand their entitlements and obligations. The digital divide is an issue for people with disabilities, non-English speakers, and young people.

12. Plain language information on debt is very important, including ensuring informed consent at the point the debt is being created (where the debt is a repayable payment for goods or services). We heard several times that some people receiving recoverable hardship grants do not understand that they are loans, and that legal aid loans were also sometimes understood to be grants. Literacy (including financial literacy) can be a barrier to navigating government services and debt policies and procedures. Submitters considered that government agencies should have the same disclosure requirements as private lenders under the Credit Contracts and Consumer Finance Act 2003 (CCCFA) — including information around how to apply for hardship relief, and how to access non-financial alternatives to repayment, if these should be available.

Suggestions for improving transparency:

- Plain language requirement for all debt-related communications,
- Communication with anyone should be possible through a channel that works for them,
- Ensure informed consent where people are agreeing to take on loans,
- Ensure clients correctly understand their obligations around advising of change of circumstance when they start receiving welfare entitlements,

- The term "recoverable grant" should not be used because it can sound to recipients as though the money is a "grant" and does not need to be repaid, and

- Information disclosures to mirror requirements of the CCCFA (including disclosure of repayment terms and conditions and what happens in case of default, how to apply for hardship assistance, and access to dispute resolution processes).

Operational guidelines for hardship assessments

13. Most submitters accepted that hardship assessments are a necessary step in granting hardship relief. They noted, however, that these assessments can be traumatic for applicants, and that they often have to provide the same information over and again to different agencies with different rules and requirements. We heard that outcomes can be very different within the same agency, depending on "who you get on the phone". We also heard that some groups typically struggle to get good outcomes from these processes, just as they are likely to struggle to get full and correct welfare entitlements in the first place. Those most impacted include people with disabilities, young people, people with English as a second language, people with mental health issues, and anyone who cannot afford to spend hours at a time on hold to a call centre. Submitters generally supported the idea of a "person-centred framework" but noted that increasing discretion around hardship relief may actually lead to relatively worse outcomes for more vulnerable groups, as they tend to be less well equipped to advocate for their own interests.

Suggestions for improving the hardship assessment process:

- Implement a common format across departments for the information required for hardship assessments (consistent with CCCFA regulations, and with Building Financial Capability budgeting advice),

- Review training for call centre staff who make hardship assessments with a view to ensuring more consistent outcomes, including for vulnerable population groups,

- Discretion should be supported by clear guidance, and agencies should collect information that will show them whether some groups are getting better treatment than others,

- Identify which groups are at risk of poor outcomes, and put in place referral systems to financial mentors or other appropriate support services,

- Consider information sharing between departments for hardship information, and

- Require departments to record on client files when a full and correct entitlement assessment has been carried out, and do these assessments from the first point of contact with a client needing assistance

Family violence

14. Many submitters pointed out that the framework did not consider how to treat debt arising from family violence.

Suggestions for guidance on dealing with debt caused by family violence:

- Ensure staff are informed about the complexities and signs of family violence and know how to support their customers,

- Avoid requiring evidence of family violence, so that responses are timely and prioritise the safety of the survivor,
- Avoid requiring repeat disclosure of circumstances. This can be traumatising and potentially creates a barrier to further support being sought. Some examples of solutions for this are referral arrangements and a dedicated phone line to flag the situation. Implement systems for smooth referrals to expert support services,
- Have policies on how to separate debt between the perpetrator and survivor, including policies for waiving debt for people affected by family violence, and
- Have effective processes for safety and protection of information, including keeping information confidential between account holders if requested.

Feedback on the treatment of different kinds of debt

15. Submitters agreed that write-off should be the default setting for debt incurred as a result of administrative error. However, they pointed out that in practice this can be difficult to determine, and similarly that it can be very difficult to determine whether debt is a result of intentional fraud. Wider circumstances often need to be taken into account.

Suggestions for changes to the treatment of different categories of debt:

- Develop clear guidance for determining when debt has been occurred through administrative error or fraud, and
- Implement a voluntary disclosure regime that facilitates write-offs for overpayments that are picked up and reported by the client rather than the agency.

Working with financial mentors

16. We were told that people in debt commonly get far better outcomes from agencies when supported by financial mentors. Ideally, this would not be the case, but in the real world, financial mentors fill an important gap, particularly for people who struggle to engage effectively with government agencies. By acting as intermediaries, they can help take pressure off agency staff. Submitters pointed out that many financial mentor services receive government funding, and it would make sense for government agencies to think about how to make this relationship as effective as possible.

Suggestions for working with financial mentors:

- Agencies should formalise referral policies to financial mentor services,
- Increase funding for financial mentors,
- Introduce dedicated phone lines for mentors,
- Introduce a common format for hardship assessment designed in conjunction with the Building Financial Capability (BFC) budgeting process, and
- Agencies should consider how they might use BFC information and training services — for example, consider establishing joint training of mentors and call centre staff.

Agency collaboration and information sharing

17. Many submitters felt that a proposal for a single debt collection agency should be put back onto the table, as it would be a much more efficient way for people in debt to transact with the government. They saw the main advantage as being all information could be held in one place. Submitters told us that clients sometimes have difficulty even understanding their debt situation across multiple government agencies, let alone being able to effectively negotiate affordable repayment arrangements.

18. Submitters felt that the government is too concerned with protecting client privacy, and that this can come at great cost to the client if it prevents effective information sharing. Many clients believe that all government information is already shared; others do not understand which agency holds what information. This can make it difficult for them to understand who needs to be informed of what, and this can be a driver of overpayment debt.

Suggestions for improving agency collaboration:

- As mentioned in the section on legacy debt, establish review panels for problem debt, comprising representatives from both financial mentor services and all relevant government agencies2,
- Regional pop-up sessions where government agency representatives could talk to clients as a group and design a coordinated debt relief plan, and
- Create information portals where multiple agencies could upload client information and clients can access a full picture.

Other issues

19. In this summary document we have not been able to include a discussion of every suggestion we received. A number of other suggestions across various topics are noted below.

Other suggestions:

- Consider how the transfer system might be transformed into a savings scheme approach, as opposed to an overpayment or deficit approach
- Consider how this framework might be extended to local government debt
- Clarify that the framework only applies to personal debt, not commercial debt
- Review the way government debt is included in insolvency procedures
- Consider whether information on debt to government should be provided to credit reporting agencies, and
- Prevent the use of unregulated private debt collection agencies.

Doc 2

SWC-23-MIN-0092

Cabinet Social Wellbeing Committee

Minute of Decision

Policy Framework for Debt to Government

Portfolios **Social Development and Employment / Child Poverty Reduction / Justice / Associate Revenue**

On 26 July 2023, the Cabinet Social Wellbeing Committee (SWC):

1 **noted** that in September 2022, SWC agreed to consultation on a policy framework for debt to government, and invited the Minister for Social Development and Employment, Minister for Child Poverty Reduction, Minister of Justice and Associate Minister of Revenue (joint Ministers) to report back on progress in June 2023 [SWC-22-MIN-0170];

2 **noted** the summary of feedback from internal and targeted external consultation, attached as Appendix Two under SWC-23-SUB-0092;

3 **agreed** to adopt the all-of-government framework for debt to government (the framework), attached as Appendix One under SWC-23-SUB-0092, as a Cabinet policy tool, subject to final editing and formatting for publication;

4 **noted** that the Student Loan Scheme will sit outside the framework, as its own framework contains several features designed to manage lending, provide for manageable repayments, and alleviate hardship for borrowers;

5 **agreed** that relevant policy papers submitted to Cabinet will include a discussion on whether the proposal is consistent with the principles and guidance in the framework;

6 **invited** joint Ministers to report back to Cabinet in July 2024 with:

6.1 an initial assessment of whether the framework has been effective as a policy tool to improve advice to Cabinet;

6.2 the results of joint Ministers' review of their agencies' existing debt policies and operations against the framework, and any changes that have been made or will be recommended as a result;

6.3 advice on future reporting and evaluation, including a data collection strategy to support ongoing reporting on debt outcomes;

7 **invited** joint Ministers report back to Cabinet by 31 July 2026 with an evaluation in order for Ministers to decide whether to retain the framework or consider alternative approaches;

8 **noted** that ongoing administration of the framework, including the proposed reporting, will be the responsibility of the Associate Minister of Revenue and Inland Revenue, in consultation with the Minister for Social Development and Employment, Minister for Child Poverty Reduction and Minister of Justice;

9 s 9(2)(f)(iv) [redacted]

10 s 9(2)(f)(iv) [redacted]

11 **noted** the work programme update in the paper under SWC-23-SUB-0092, which shows that there have been some achievements but some initiatives have not progressed very far;

12 **noted** that no further policy work is proposed on the development of a single all-of-government hardship assessment test.

Rachel Clarke
Committee Secretary

Present:
Rt Hon Chris Hipkins
Hon Carmel Sepuloni
Hon Grant Robertson
Hon Dr Megan Woods
Hon Jan Tinetti
Hon Dr Ayesha Verrall
Hon Priyanca Radhakrishnan
Hon Ginny Andersen
Hon Barbara Edmonds
Hon Willow-Jean Prime
Hon Dr Deborah Russell

Officials present from:
Office of the Prime Minister
Officials Committee for SWC