



MINISTRY OF SOCIAL DEVELOPMENT

Te Manatū Whakahiato Ora

Bowen State Building, Bowen Street, Wellington 6011, PO Box 1556, Wellington 6140 • Telephone: 0-4-916 3300 • Facsimile: 0-4-918 0099

- 2 OCT 2012

Ms Alex Harris
fyi-request-546-8430156b@requests.fyi.org.nz

Dear Ms Harris

Thank you for your email of 5 September 2012 requesting, under the Official Information Act 1982, all advice and communications on the new policy of stopping benefits for those with outstanding arrest warrants.

As you will be aware, the Government has proposed stopping benefit payments where beneficiaries have a warrant to arrest in criminal proceedings. The Bill was introduced on 17 September 2012 and it is anticipated that it will be implemented by the Ministry of Social Development from June 2013.

People in receipt of a benefit with a warrant to arrest in criminal proceedings that is not cleared within 28 days from its issue will be notified by Work and Income that their benefit will be stopped after a ten working day notice period. This gives a person at least 38 days to clear their warrant. Work and Income will contact approximately 3,500 beneficiaries a year under this policy.

If the person is determined by the Police Commissioner to be a risk to the public, benefit payments can be stopped immediately.

I can advise that the final Cabinet paper relating to the policy to stop benefit payments for those with warrants to arrest has been released on the Ministry of Social Development's website and can be accessed on the following website www.msd.govt.nz.

I have enclosed the following related documents:

- Briefing: *Summary of decisions post February 2012 Cabinet papers*, dated 14 June 2012
- Report: *Warrants to Arrest*, dated 5 July 2012
- Aide-mémoire: *Welfare Reform: outstanding decisions* dated 2 August 2012 (second page only)
- Aide-mémoire: *Welfare Reform: Stopping benefit payments for warrants to arrest*, dated 16 August 2012
- Aide-mémoire: *Welfare Reform: Stopping benefit payments for warrants to arrest*, dated 24 August 2012.

I have withheld a small amount of information from the report dated 5 July 2012, *Warrants to Arrest* under section 9(2)(g)(i) of the Act as the material contains free and frank expression of opinions between officials. I consider that the need to maintain the effective conduct of public affairs outweighs any public interest in releasing this information.

I hope you find this information helpful. You have the right to seek an investigation and review of my response by the Ombudsman, whose address for contact purposes is:

The Ombudsman
Office of the Ombudsman
PO Box 10-152
WELLINGTON 6143

Yours sincerely



Sue Mackwell
Deputy Chief Executive Social Policy and Knowledge



MINISTRY OF
SOCIAL DEVELOPMENT
Te Manatū Whakahiato Ora

paper

Date: 14 June 2012 Security Level: IN CONFIDENCE
For: Hon Paula Bennett, Minister for Social Development
Name: Welfare Reform: Decisions paper
File Reference: A6250232

Note pages 1 to 10 and page 12 are out of scope

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

out of scope

OFFICIAL INFORMATION ACT
RELEASED UNDER THE

77	The approach to beneficiaries with warrants to arrest will be targeted to those with warrants for serious offences (Categories 3 and 4 in the enacted but yet to come into force Criminal Procedures Act). Work and Income will become involved 10 working days after the issue of the warrant to arrest	This enacts a Manifesto commitment and means that beneficiaries with warrants to arrest for serious offences will be warned to clear their warrants or else have their benefit suspended	1,600 people a year
----	--	--	---------------------

Stopping benefits for warrants to arrest in criminal proceedings

Features of the warrants to arrest proposal are set out below. These will be reflected in the recommendations in the Cabinet paper.

- The National Party 2011 Election manifesto committed to stop benefit payments to beneficiaries with warrants to arrest who are "on the run"
- Benefits are not payable to beneficiaries with warrants to arrest issued in criminal proceedings, after the beneficiary has been given time, by notice, to clear the warrant
- People with dependent children can never lose more than 50% of their benefit and spouses and partners will continue to be paid half the benefit and supplementary assistance whether they have entitlement to the benefit or not
- This empowering provision is wide and will cover people with warrants to arrest receiving superannuation and Veteran's Pension
- Regulations will be developed to address any operational/capacity issues that arise from the wide empowering provision. This could be by way of notification times or timeframes for voluntary resolution of the warrant, as well as other administrative procedures
- The Commissioner of Police will be able to request that the benefit be stopped immediately for certain individuals who pose a serious risk to the public. Note that this will have Bill of Rights implications (but you may well consider these less important than the public safety benefits)
- Information matching under the Privacy Act and the Privacy (Information Sharing) Bill is required between agencies to identify beneficiaries with warrants to arrest.

Approve the above approach for warrants to arrest for inclusion in the Cabinet paper

YES/NO

out of scope

RELEASED UNDER THE OFFICIAL INFORMATION ACT



Date: 5 July 2012 Security Level: IN CONFIDENCE

To: Hon Judith Collins, Minister of Justice
 Hon Paula Bennett, Minister for Social Development
 Hon Anne Tolley, Minister for Police

Warrants to Arrest - Background

Purpose of the report

- 1 This report provides you with further information regarding the proposed implementation of the Warrants to Arrest (WTA) policy, following Ministerial decisions at the Welfare Reform Ministerial Group Five meeting on 19 June 2012.
- 2 The policy would enable the Ministry of Social Development to stop the benefits of beneficiaries who have an active WTA until the WTA is resolved.
- 3 Officials from the Ministry of Social Development (lead), Ministry of Justice and New Zealand Police (Police) have been working closely on the WTA initiative and will continue to support its effective implementation.

Recommended actions

It is recommended that you:

Note this report

 Malcolm Luey
 General Manager
 Criminal Justice
 Ministry of Justice

 Date

 Sue Mackwell
 Deputy Chief Executive
 Social Policy and Knowledge
 Ministry of Social Development

 Date

Viv Rickard
Deputy Commissioner
New Zealand Police

Date

Hon Judith Collins
Minister of Justice

Date

Hon Paula Bennett
Minister for Social Development

Date

Hon Anne Tolley
Minister for Police

Date

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Background

- 4 As part of the National Party 2011 Election Manifesto (Manifesto), the Party outlined a range of initiatives to help build confidence in the welfare system. This included an election promise that "if someone is on the run from the Police, with a warrant out for their arrest, we will stop their benefit". The rationale provided for this approach in the Manifesto is that, "taxpayers should not be paying people wanted by the Police to evade the law. This collaborative approach between Police and Work and Income will free up significant Police time and resources."
- 5 Building on the Manifesto, the National Party Welfare Obligations Policy 2011 paper provided further details, noting that benefit repayments will resume, with no back pay, once the warrant is cleared. It also states that for beneficiaries with children, there will be a 50% suspension of the benefit.
- 6 The policy is a shift from the established objectives of Work and Income to provide appropriate financial support and assist people to find employment, to a maintenance of the law' role.
- 7 Benefits are not currently stopped when a beneficiary has a WTA in criminal proceedings. In order to implement this change, a legislative amendment to the Social Security Act 1964 would be required.
- 8 The Ministry of Social Development (lead), Ministry of Justice and the Police have been working closely on this policy change to support its effective implementation.

Warrants to Arrest in criminal proceedings

- 9 WTAs in criminal proceedings are initiated and resolved by the Ministry of Justice. They are issued in a range of circumstances and require an individual to appear in court. Once issued, an automatic notification is sent to Police to action the WTA. Court registrars are generally able to resolve WTAs immediately, by withdrawing the WTA and where appropriate issuing the individual with a court date. However, in some circumstances a WTA must be resolved by a judge and a court appearance will be scheduled.
- 10 As of 16 April 2012, there were approximately 37,000 outstanding WTAs issued against approximately 15,000 individuals. A data matching exercise (using a sample of 1,000 individuals with a WTA) between the Ministries of Social Development and Justice, identified that approximately 55% of people with WTAs are beneficiaries. Extrapolated out, the sample indicates that at a single point in time, approximately 8,250 beneficiaries have an active WTA, or 2.5% of all beneficiaries.

Implementation

Legislative amendment to the Social Security Act 1964

- 11 At the Welfare Reform Ministerial Group Five meeting on Tuesday 19 June 2012, Ministers agreed that the WTA policy would apply to all beneficiaries who had an active WTA.
- 12 To enable this policy change to work effectively, officials are proposing to implement an empowering provision within the Social Security Act. This would enable the Ministry of Social Development to stop an individual's benefit where they have an active WTA, and

allow for a proportion of the benefit to be retained for people with children – in line with the original Manifesto commitment.

- 13 A Cabinet paper outlining the details of the proposed legislative amendment will be consulted on with relevant Ministers and agencies in July 2012.

Regulations and administrative arrangements

- 14 Regulations and/or administrative arrangements, such as a Memorandum of Understanding or a Letter of Agreement, would be used to describe how the policy will work in practice. A regulation-making power will be included as part of the legislative amendment to the Social Security Act.
- 15 The use of Regulations and/or administrative arrangements will provide agencies with further time to work through the operational implications associated with this policy change. This includes matters such as:
- clarifying the process for stopping and restarting benefit payments
 - prioritisation of notifications to beneficiaries with WTAs to manage the increase in workload for Work and Income,
 - identifying the location of individuals actively sought by Police, as quickly as possible.
 - notification timeframes provided to beneficiaries to enable them to voluntarily resolve their WTAs
 - notification timeframes between agencies to enable data matching and information sharing, and
 - staged implementation of this policy to ensure that courts are not overwhelmed with people wanting to resolve their WTAs
- 16 Officials will brief you on the outcomes of this work once it has progressed.

Other related issues

Cost of IT changes to Work and Income Systems

- 17 Suspension of the benefit, as set up in the current IT system, does not allow for the 50% protection of income for beneficiaries with children or the protection of the portion of income paid to partners. Therefore, changes to the IT system will be required and appear to be more complex than originally anticipated.
- 18 Work and Income is meeting with the Ministry of Justice to discuss IT issues and explore if there are ways of facilitating the efficient processing of beneficiaries, but there may be an additional cost if new IT solutions are required.

Information sharing

- 19 In order to identify individuals with WTAs who are also beneficiaries, WTA information will need to be shared between the Ministry of Justice and Ministry of Social Development. Officials are assessing whether it is appropriate to draw up an information sharing agreement under the Privacy (Information Sharing) Bill, currently awaiting its second reading. As WTAs may be considered part of the Court record, and therefore out of scope of the Privacy Act 1993, it may be necessary to amend the Social Security Act to support information sharing.

9(2)(g)(i)

Next steps

- 23 Officials from the Ministries of Social Development, Justice and Police will continue to work closely on the implementation of the WTA initiative. A Cabinet paper outlining proposed legislative amendments to support this work will be submitted to the Cabinet Social Policy Committee on 9(2)(g)(i). If approved, officials will continue to work on the regulations and administrative arrangements to support the WTA initiative. A briefing will be provided on recommended options once these have been developed.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT



aide-mémoire

cabinet paper

Date: 16 August 2012 Security Level: Cabinet Sensitive
For: Hon Paula Bennett, Minister for Social Development
File Reference: A6360841

Welfare Reform: Stopping benefit payments for warrants to arrest

- You are presenting a paper on welfare reform proposals at SOC on 22 August. Cabinet invited you to report back on proposals to stop benefit payments to beneficiaries who have a warrant to arrest in criminal proceedings (WTA).
- The decisions made from this Cabinet paper will be included in the Social Security (Benefit Categories and Work Focus) Amendment Bill, alongside decisions taken on 30 July.
- This paper seeks agreement to amend the Social Security Act to allow for Work and Income to stop benefit payments for beneficiaries who still have, after 28 calendar days from its issue, a WTA. The beneficiary will be given a notice period of at least 10 working days in which they can clear their WTA or challenge that the WTA is for them.
- This paper also seeks agreement that the Police Commissioner can request Work and Income to stop benefit payments immediately to beneficiaries who are considered to pose a risk to the public's safety.

Key issues

This policy was outlined in the government *Welfare Obligations* manifesto.

- A WTA is issued when a person does not appear, or is likely not to appear, in court to answer a charge. The person is considered innocent of the charge for which the WTA is related to.

Clearing a WTA can be achieved by:

- o getting it withdrawn by the Court Registrar,
- o getting a new court date to answer the charge, or
- o less commonly, having to appear in front of a judge to answer the charge.

The WTA is cleared regardless of the outcome of the court appearance.

- It has been shown that 58% of people spontaneously clear their WTA within 28 days, and so this number of days was chosen to elapse before the proposal is to be

applied. This ensures that the majority of beneficiaries who are issued WTA would not feel unnecessarily pressured by the threat of having their benefit stopped.

- Those who still have not cleared their WTA, and this will include some people who do not know they have a WTA, will be notified by Work and Income that their benefit will be stopped within 10 working days if they do not clear the WTA. This timeframe allows the beneficiary to clear their WTA before adverse action occurs, or to challenge that the WTA is issued to them.
- For those beneficiaries who are considered a risk to the public's safety and cannot be located, the Police Commissioner will be able to request Work and Income to start the process to stop benefit payments immediately at any time after issue of the WTA. I expect the Police to have made a good faith effort to locate the person before making such a request and therefore such requests will be exceptional.
- Once a beneficiary has lost their benefit, they will be able to clear their WTA and get their benefit payments immediately reinstated, but the payments will not be backdated.
- Information matching and information sharing are a vital part of this proposal and therefore particular attention will be paid to establishing efficient and robust information flows.
- There are possible human rights issues with regard to discrimination on the basis of employment status, and the observation of the principles of natural justice with regard to those who pose a risk to the public's safety. These will be discussed further with the Ministry of Justice.

Interagency Comments

Treasury

Treasury supports this proposal.

Ministry of Justice

The Ministry of Justice (MoJ) issues and clears WTA and therefore has worked closely with us to develop this proposal. They support the proposal as it is likely to improve the clearance rate of WTA.

New Zealand Police

The Police support this policy, as it allows them to have another tool in their toolbox for locating and managing certain high priority individuals. They too have worked closely with us to develop this proposal.



aide-mémoire

cabinet paper

Date: 24 August 2012 Security Level: Cabinet Sensitive
For: Hon Paula Bennett, Minister for Social Development
File Reference: A6379970

Welfare Reform: Stopping benefit payments for warrants to arrest

- This paper was presented to SOC on 22 August. Cabinet invited you to report back on proposals to stop benefit payments to beneficiaries who have a warrant to arrest in criminal proceedings (WTA).
- The decisions made from this Cabinet paper will be included in the Social Security (Benefit Categories and Work Focus) Amendment Bill, alongside decisions taken on 30 July.
- This paper seeks agreement to amend the Social Security Act to allow for Work and Income to stop benefit payments for beneficiaries who still have, after 28 calendar days from its issue, a WTA. The beneficiary will be given a notice period of at least 10 working days in which they can clear their WTA or challenge that the WTA is for them.
- Some clarifications have been made to the paper after discussion at SOC

Clarifications

- The spouse or partner of the beneficiary with the WTA will retain their portion of the benefit, including supplementary benefits and, if necessary, be able to apply for hardship assistance.
- There is discretion to continue to pay the spouse or partner a portion of the benefit payment if they themselves are not eligible for the benefit at the time their partner's benefit payment stops.
- These mean that the impact on the family of a beneficiary with a WTA will be mitigated.
- When the Police request Work and Income to stop benefit payments immediately to beneficiaries who are considered to pose a risk to the public's safety, this means that neither the 28 day period nor 10 day notification period will apply.