



# Solidarity in Action

Welfare Advocacy Handbook



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# Introduction

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This handbook has been put together by a small group of people who have been involved in beneficiary advocacy and unemployed workers' rights organisations since the 1980s. We have seen many changes in welfare law, regulation, culture and bureaucracy over this time, but the fundamentals remain the same.

Aotearoa New Zealand's welfare system, as the Labour government's own 2018 Welfare Advisory Group said 'is no longer fit for purpose and needs fundamental change.' People who have no choice but to rely on income support for some period of their lives are often confused, crushed and demoralised by their attempts to access the full support to which the state says they are legally entitled. The Covid-19 pandemic has exacerbated already deepening inequalities, with Māori and Pasifika communities disproportionately

impacted by covid on top of existing income, health and housing conditions.

Whether you are a beneficiary advocate, social worker, community worker or a beneficiary advocating for yourself, it is really helpful to learn the skills and knowledge which will enable you to work effectively with government departments, particularly Work and Income and the Ministry of Social Development (MSD). This handbook brings together the essential information needed when dealing with the complexities of income and housing support provided by MSD and offers advice on how to act as an effective advocate when supporting individuals and families at the interface with Work and Income.

Nothing happens in a vacuum. We believe it is not enough simply to help people access what they are entitled to at the local Work and Income office, or to accept that things will stay this way forever. It is more important than ever that as many of us as possible come together in organisations capable of working for structural change in the provision of welfare and housing and for social, economic, and ecological justice grounded in Te Tiriti o Waitangi.

Individual and systemic advocacy go hand in hand.

The first section of the handbook (Part A) briefly explores the broader historical and political context within which MSD operates and proposes several suggestions on alternatives and solutions to the existing flawed and cumbersome system. We then go on to consider the nature of the connection between individual advocacy and collective advocacy for policy change and highlight some of the skills needed for both. We also note the transferability of welfare advocacy expertise and experience to situations where people need help with issues like disability support, health, housing and ACC.

The second section is at the heart of this handbook. Part (B) covers the key areas of what those undertaking benefit advocacy with individuals and families at Work and Income need to know in regards to entitlements, processes, and appeals. In Part (C) we turn to the key information advocates need when carrying out housing advocacy with Work and Income. This does not cover all aspects of housing, dealing solely with MSD's responsibilities in assessing the needs of whānau for social housing.

Welfare and housing advocacy with MSD is one of the most complex and difficult areas of law and regulation for anyone to work with, even lawyers trained in the field. While we cannot avoid this complexity, we have tried to make this handbook as accessible as possible for those who are on the frontline of providing support with and for people at a particularly vulnerable time in their lives.

We also suggest that if you are new to this kind of work, it is useful to have hands-on training from people who are experienced and can help provide insights into how best to turn both individual and collective advocacy into effective action.

We would like to acknowledge many advocates and activists with whom we have worked over the years for your role in helping foster a culture of solidarity and action on issues of welfare, poverty, housing and unemployment. In particular, we would like to recognise the contributions made by Paul Blair and Tony McGurk to this handbook and to honour your mahi over decades at the leading edges of beneficiary advocacy in New Zealand. We also thank unionist, housing advocate and artist Heleyni Pratley for her thoughtful and delightful illustrations and Cassie McCracken for her detailed layout of this handbook. Furthermore, we acknowledge the support of M. E. Family Services in initiating this project.

We wish everyone who uses this handbook well in your work and welcome suggestions for improvements in future editions.

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# Part A:

## Welfare and advocacy

- Welfare advocacy in context
- Advocacy



# 1. Welfare advocacy in context

## (i) Brief historical overview

Inequality and poverty have been part of life in Aotearoa New Zealand since the time of European settlement. Māori have always been disproportionately affected by unemployment, poverty and poor housing as an integral aspect of the long-running impacts of colonisation. Later generations of Pasifika migrants have also suffered similarly disproportionate effects, in part because of the racism embedded deep within many of the country's institutions.

The first major development in social security provision was the 1898 Old Age Pensions Act which provided a low means-tested benefit for people over age 65 who met certain criteria. Many Māori were not eligible and Asian people were excluded from any support.

When economic collapse and the subsequent Great Depression of the 1930s resulted in widespread joblessness, many subsisted in desperate poverty. There was no such thing as an unemployment benefit. Jobless men were forced into work camps and temporary jobs in return for a pittance while many families were dependent on charity for survival.



After the Labour Party came to power in 1935 on the back of widespread worker and unemployed worker unrest, the first Social Security Act was introduced in 1938. This provided a welfare 'safety net' through the provision of superannuation, sickness, widowhood, unemployment, orphanhood and family benefits. Labour was also committed to the development of state housing, full employment and a guarantee of universal access to education. The following timeline highlights some key moments relating to welfare policy and provision from the postwar period to the present.

## Indicative timeline 1946 – present.

- **1946** The family benefit was extended to all Māori children.
- **1958** The family benefit could now be capitalised so that people could use it to buy their first family home.
- **1964** A new Social Security Act replaced the original 1938 Act. It was mainly a tidying up piece of legislation and did not introduce major new policy.
- **1972** The Royal Commission on Social Security reported back to the government with a recommendation (among others) that people on benefits should receive enough income so that they can 'belong and participate' in society.

- **1973** The Domestic Purposes Benefit (DPB) for sole parents was introduced.
- **1977** New Zealand Superannuation was introduced.
- **1980s** Under the Labour government 1984 – 1990 unemployment rose hugely with the implementation of a neoliberal agenda of privatisation, state sector cutbacks and the removal of protective subsidies.
- **1991** A new National government slashed benefit levels while also introducing the Employment Contracts Act aimed at weakening the power of unions. Means-tested tax credits replaced the Family Benefit. Stand-downs of 13-26 weeks were introduced for ‘voluntary’ unemployment, which meant that if you left the job of your own accord or were sacked, you were obliged to spend extended periods with no income support at all.
- **1991** From 1991 onwards there was a big increase in targeted, discretionary support such as Special Benefit and Special Needs Grants, in essence making up for some of the income lost as the result of the benefit cuts. At the same time, there was a steady rise in the number of foodbanks which gradually became an integral part of support for people in need. Charity was once again becoming an accepted component of welfare provision as it had been in the 1930s and earlier.
- **2004** At the end of 1999 a Labour-lead government came to power. In 2004 they announced Working for Families, which entrenched discrimination against beneficiaries with the In Work Tax Credit paid only to families whose breadwinner(s) are in low waged paid work. The Special Benefit which had helped to plug the income gap caused by the 1991 benefit cuts was abolished, and replaced with the more limited TAS (Temporary Additional Support).
- **2007** The purpose of the Social Security Act was changed so that getting into paid employment became the overarching goal of welfare rather than its original ‘safety net’ focus.
- **2008** A National-led government is elected, announcing the first steps towards a major welfare reform programme.
- **2010** Paula Bennett sets up a Welfare Working Group (WWG) with the goal of reducing ‘long term benefit dependence’ in order to cut government costs. Former Commerce Commission Chair Paula Rebstock is appointed to head the WWG.
- **2011** The WWG reports back with a 183-page report recommending a vast number of reforms. National goes into the election campaign promising an ‘unrelenting focus on work’. After re-election, National introduces a number of fine-tuned welfare changes over the next few years, including (among many others):
  - Changes to benefit categories: Jobseeker Support for people who are looking for work, including many of those suffering from a health condition, injury or disability; Sole Parent Support for sole parents with children under 14; Supported Living Payment for those who have or care for someone with a health condition, injury or disability which limits their ability to work on a long-term basis.
  - Beneficiaries with work expectations could lose their benefit if they fail, or refuse to take, a drug test.
  - Sole parents with children 3 – 13 years old are subject to a part-time work test. Any parent in the benefit system who has another child while on the benefit will have to look for work when their baby turns one year old.
- **2018** Following its election in 2017, Labour’s Minister for Social Development Carmel Sepuloni establishes the Welfare Expert Advisory Group (WEAG) chaired by former Children’s Commissioner (and New Zealand’s next Governor-General), Cindy Kiro.



**2019** The WEAG reports back with 42 main and 120 detailed recommendations: 162 in total. Called *Whakamana Tāngata – Restoring Dignity to Social Security in New Zealand*, the full report is available here: <http://www.weag.govt.nz/weag-report/whakamana-tangata/>

Some of its key proposals include:

- Benefit levels should be set at enough for a dignified life – lift benefits by between 12-47%.
- People should be treated well while on welfare. Trust must be restored in the system.
- Abolish many of the sanctions which harm individuals and families. Sanctions happen when benefits are reduced or cut altogether because people aren't meeting MSD requirements.
- People should be supported to achieve their potential for learning, caring or volunteering, and to earn through good and appropriate work. The overarching focus of welfare should not be on simply getting people into paid work.
- Speed up access to safe, secure housing for people who are homeless.

In response the government announces that it will make these changes:

- Abolish the sanction which reduces benefits for people who can't or won't name the father of their child or children – April 2020.
- Introduces a minor increase in the amount people can earn while on benefits before the benefit is cut (the abatement rate).
- Will increase the number of Work and Income staff by 263 over three years.

**2020** The covid-19 pandemic arrives. The government's welfare response includes:

- All benefits are raised by \$25 per week.
- People who were made unemployed from March 2020 onwards because of covid received \$490pw for a limited period, rather than the base rate of \$250 pw allocated to people aged 25 and over who were on the regular Jobseeker Support (unemployed) benefit. The covid payment was also paid to people in their own right, rather than being means-tested against a partner's income. This and the higher rate created a temporary 'two tier' benefit system which privileged those who are deemed jobless because of covid. The scheme ended in March 2021.

**2021** Following its reelection in 2020 the Labour Government made or announced further changes in its May 2021 Budget including:

- From 1 July 2021 all main benefits went up by \$20 per adult per week. These will increase further by varying amounts from 1 April 2022. It is worth noting that NZ Super and Veterans' Pension are not seen as 'main benefits'.
- Sole parents on a benefit and carers and disabled people on the Supported Living Payment will be able to apply for a Training Incentive Allowance for degree-level study and below from 1 July 2021.
- The government also announces it will look into creating a new 'unemployment insurance' scheme, working with union and business leaders to design what it might look like. 'Unemployment insurance' would be like ACC whereby some employed workers who suddenly lost their jobs would get short term insurance of up to 80% of their wages before either getting another job or entering the main benefit system at what would mostly be much lower rates of support.

There were other changes announced in the Budget as well.

<https://www.workandincome.govt.nz/about-work-and-income/news/2021/2021-budget.html#null>

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## (ii) The big picture – a snapshot

The development of welfare policy and law in Aotearoa New Zealand will always be subject to change in response to the policy directions taken by the parties who make up government and in response to variable external economic and other circumstances, like the covid crisis.

- In 2018-2019, before covid hit, around 630,000 people received welfare payments out of New Zealand's population of 5 million. (WEAG)
- Between 1985 and 2017, benefit rates as a proportion of wages reduced by up to 30%, highlighting the impact of benefit cuts and sanctions over three decades. (WEAG)
- In May 2019 Māori made up 36% of all working age people receiving a benefit. (WEAG)
- The number of those who are homeless or in substandard living conditions has risen constantly over the past decade. By March 2021 there were 23,688 applicants on the Housing Register, an increase of 45.3% compared with March 2020 <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/statistics/housing/index.html> As anyone who works with low income and homeless people in their local communities is aware, these figures reflect only a small proportion of those in desperate housing need.
- In their May 2021 post-Budget report the Child Poverty Action Group (CPAG) noted that while the government forecast that measures to lift benefits would take up to 30,000 children out of poverty, that would still leave 180,000 – 190,000 children in poverty in Aotearoa. <https://www.cpag.org.nz/assets/Budget/CPAG-Budget-2021-AnalysisSummary.pdf>

Behind statistics like these lie the real life stories of struggle, despair and survival.

From the point of view of many beneficiaries and those who work to support them, the last few decades have been an unrelenting saga of benefit cuts, increasing use of sanctions, a punitive approach from government and the sense of living in a system that treats beneficiaries as somehow less worthy of dignity and respect than others in our society.

Current welfare law is complicated, punitive, messy and very difficult to work with. It is the result of decades of change large and small, driven by various political prejudices and the desire to cut welfare costs to win votes, no matter which parties are in power. As the Welfare Expert Advisory Group report says 'The overall result is a system that is badly in need of repair and no longer fit for the needs of New Zealand in the 21st century.' (WEAG *O2 Fundamental change is needed*).

Organisations in our communities can do much to help people with their day to day needs, it is also important to keep an eye on the bigger picture of what structural change might be necessary to improve family and community life in our local areas and across the country.

Some of the **key solutions** that are put forward by groups working to change our welfare system to one which is fairer, simpler and more effective include:

- Urge government to adopt most, if not all, of the recommendations of the Welfare Expert Advisory Group. A blueprint for an improved system exists – why not make use of it? As one former beneficiary told the WEAG as part of its consultation process: 'I think people that are on the benefit should not look, experience or feel different to anyone else in our country. I think people who receive benefits or welfare supports should be

completely supported to thrive ...' (WEAG 04 *Reforming social security*).

- Advocating for the WEAG recommendations also means picking up on their housing solutions. These include proposals to expand public housing and end homelessness; increase the capacity of community-based housing providers; enact laws that ensure healthy homes and housing security, and continue to subsidise housing costs for people on low incomes.
- Implement a Basic Income (sometimes called a 'UBI' or 'Universal Basic Income') which is enough to live on; gets rid of the sanctions and the naming and shaming that happens at Work and Income; and is paid to people in their own right as individuals rather than basing eligibility on whether or not you are in a relationship. There would need to be added supplements for children, disability, old age and accommodation costs. A Basic Income would replace much of the fractured system of entitlements currently in place.
- Put in place active job creation measures supported by government and local government to support those who want and need paid work into jobs; to access quality, affordable training and education; to support the creation of work for those who are disproportionately unemployed, including Māori, Pasifika, young people, women, older people, and people with disabilities; and provide support for local, community-led employment and economic initiatives.
- Measures such as these are only a small part of what is needed to create a fairer, more compassionate country, but would make a huge difference to those who are most affected by poverty, unemployment and homelessness. The economic impacts of the covid crisis and the uncertainty of what will happen with climate change make it more important than ever that we work together to create a more just and caring society.

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## 2. Advocacy

There are many different definitions of 'advocacy' used in community development, social practice, political activism and other contexts, but the two key aspects we cover here are:

**Collective advocacy:** people work together to advocate for systemic change to law and policy, and to reform the ways law and policy are put into practice.

**Individual advocacy:** advocates work with individuals and families to support them in accessing the resources and other assistance they need at the interface with government agencies and other service providers.

Collective and individual advocacy are totally interconnected when undertaken from a position of commitment to social justice, solidarity and structural change. Advocacy groups and individual advocates can be at their most principled and strongest when the work is undertaken by people who are living through or have lived through the same things as the people they are supporting, for example, deep poverty; unemployment; single parenthood; illness, sickness and disability; and homelessness.

We will also touch briefly on **self-advocacy** which is what happens when people go to a provider or government department without anyone alongside them and do their best to represent themselves. This is what happens for most people most of the time, and we will take a brief look at this at the end of this section. We intend this handbook as a useful handbook for anyone who is undertaking advocacy with Work and Income, whether it is

on behalf of a group, another person or yourself. However, our main focus is on providing information for people to use when they undertake advocacy with and for others, collectively and through individual representation, and this is where we mainly direct our attention.

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### (i) Skills of collective advocacy

Advocacy groups can come in many forms. They are community groups, tangata whenua and Pasifika organisations, faith-based, trade unions, activist groups, social movements, coalitions and more. They can be local, regional or national. Collective advocacy may only make up one small part of what an organisation does. What all these hold in common is that a group of people have come together to take action for change at a systemic level beyond the individual or family.

The decision to take collective action has to come from somewhere. Our passions and beliefs may give us the motivation. If we are in a social services organisation, church group or trade union we are also likely to be motivated by the injustices we see happening to the people with whom we work, and often to ourselves and our own families as well. The will to take action for social change often come most profoundly from the times in our own lives when we and those close to us are vulnerable, in difficulty and treated in ways we see as unfair or cruel by some aspect of the 'system'.

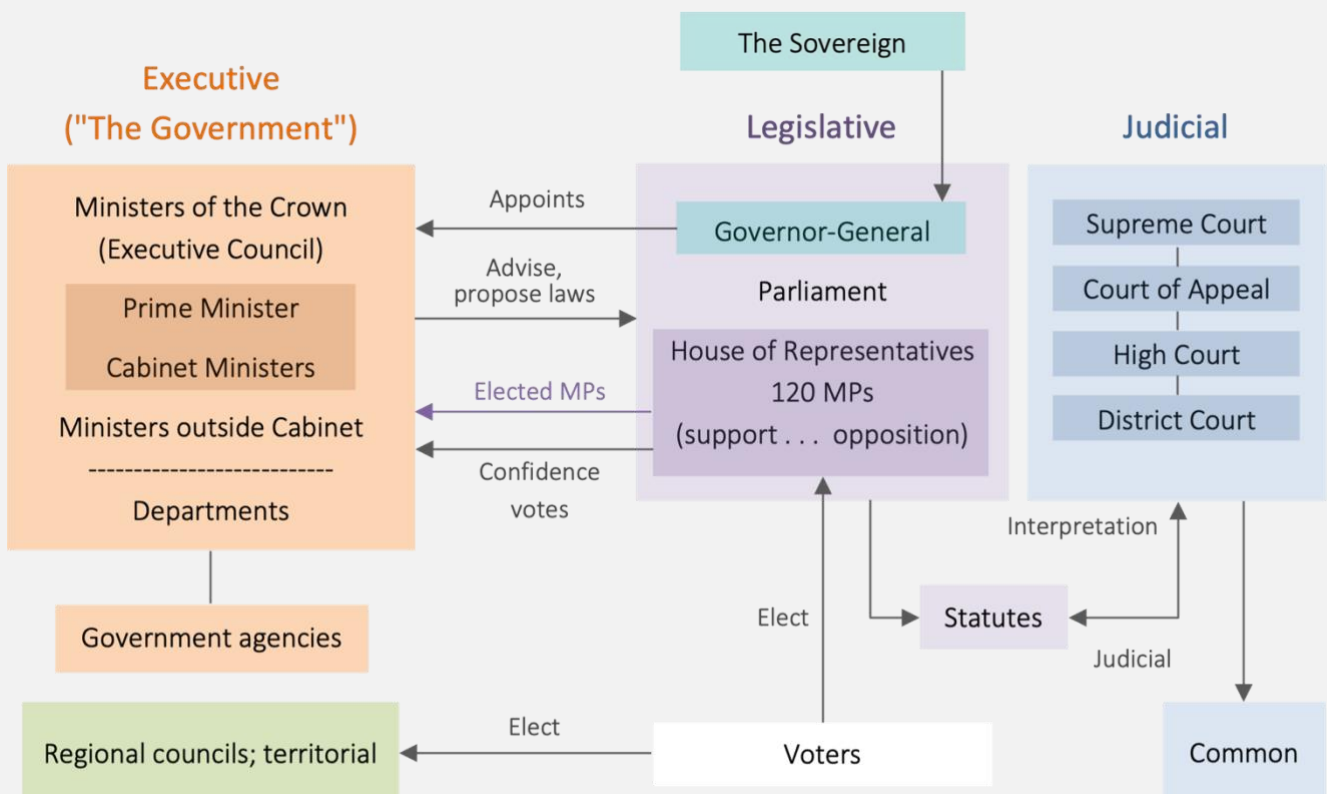
We might be angry at the 'system', and sad about the consequences, but how can we change it? Before we can hope to make change, we first have to have some basic concept of how the 'system' works.

a) Working for policy change – Government, political parties and advocacy groups

Parliament in Aotearoa New Zealand is made up of political party representatives whom we vote for at each general election. Political parties play a key role in creating change as they are able to influence policy shifts directly when they become part of a ruling government. For this reason, some people who are deeply motivated to change the world choose to join the political party which

most closely fits their values. As members they can then work through internal party processes to advocate for particular policies.

After each general election the party or parties with the most MPs in the House of Representatives then form an 'Executive' through which they organise the day to day running of the country. These parties are the 'government' and have the power to change laws and regulations on any area of policy they choose.



Government departments like the Ministry of Social Development serve the Executive and are responsible to their Minister. Departments have many staff and other resources at their disposal to carry out research, provide advice to government, and to put law, regulation and policy into practice at community level. Government also wields

the coercive powers of the state through the police and judicial system. This means that police, courts and prisons are used to make sure the laws government creates are not broken. It can be difficult for small, under-resourced organisations to achieve change in the face of all this. Yet it can be done.

Over the years, determined organisations and campaigns have created the momentum for many changes across society and to the laws which govern us. Changes can range from small and gradual to large and momentous. It is often easier to achieve single issue change (for example nuclear-free NZ or homosexual law reform) than it is to reform major areas of social policy. It is also easier to get reform in just one area than across a whole sector. Changing the whole welfare system into one that is much fairer and simpler and provides enough income support for people to live on with dignity is much harder than achieving law reform on a single issue.

For example, while a number of advocacy groups, including organisations like the Child

Poverty Action Group, the Salvation Army, UNICEF, Auckland Action Against Poverty and many others lobbied government to pick up the WEAG proposals once they came out in 2019, the government refused to budge on most of the recommended changes. However, after much campaigning and pressure around one aspect of welfare, the legislation which penalised sole parents who would or could not name the father of their child, the government eventually did get rid of that particular sanction.

So, in facing up to the power held by government, what can ordinary people and their organisations do?

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## b) Media work and communications

This is one of the critical ways in which groups can influence not just politicians and government, but also the public at large. To do media work effectively means having accountable spokespeople whom the group can trust to interact with mainstream and social media in a way that represents the group and its kaupapa honestly and well. If people are not experienced in writing media releases and other material, or in speaking to media, training is useful.

## Some tips about doing media work:

- Do your research – know what you’re talking about.
- Follow current events relevant to your area of work closely.
- Respond quickly and often.
- Ensure that every release or story has an interesting ‘hook’ – a clear point which will grab media and public attention.
- Understand that writing and interacting with and for mainstream and social media is quite skilled work and that you will be taken more seriously if you do it well.
- If your group works in or with particular communities, for example Māori, Pasifika and/or migrant organisations, being able to do media work in relevant languages is a great advantage.



**Using the situation of an individual or family for media purposes.** Where organisations are carrying out individual advocacy, there are times when the situation of a particular person or family can be offered to a journalist as a story, highlighting the need for reform on that specific issue. Media love this, as they know that telling personal stories provides an emotional connection that creates public interest.

From a casework advocacy point of view such publicity can also be useful, as this can be a fast track to getting the particular difficulty resolved. However, when considering whether or not to expose a person or family to the media, it is important to take great care to ensure they do not suffer negative consequences as a result, in a way that will make their situation even worse than it is already. Keeping the persons or family anonymous is a good idea.

It is also good to be aware that when using media to advocate for a whanau to access social housing you are likely to get that whanau to the head of the queue but another whanau drops further down the waiting list.

When using media to successfully advocate for a person to access a benefit entitlement you are unlikely to adversely affect other people. It may make it easier for others to get the same benefit entitlement in the future.

Using media as an individual advocacy strategy needs to be carefully thought through. Using media in these ways can enhance your group's community profile and make government departments wary of you – they become less likely to say no.

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### c) Lobbying

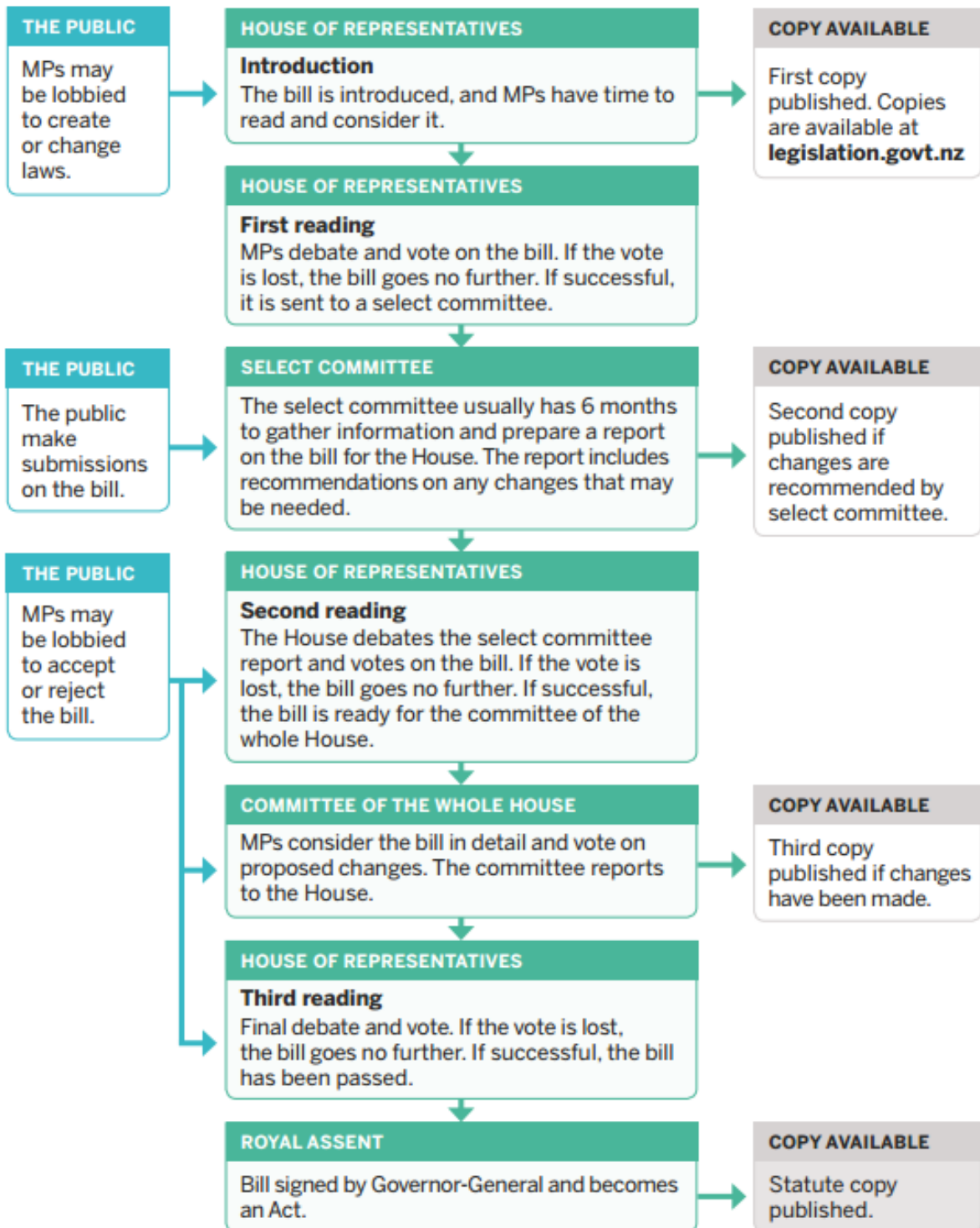
Lobbying is about finding or creating opportunities to approach individual MPs, political candidates and other influential people through attending meetings, making time to meet directly, and by writing letters and emails in order to make your case.

#### **Some tips about lobbying:**

- Do your research.
- Be clear in your speaking and writing. Why are you making this approach? What do you want from the person/people?
- When you succeed in getting a meeting with someone, make sure to leave time for questions rather than taking up all the time with a prepared presentation.
- Listen well to what the person says and respond clearly and briefly to any questions asked. Reading out a long prepared speech is the worst possible approach.
- Ahead of time prepare a written summary of the information plus any background documents you'd like the person to have along with a list of actions you'd like them to take. Make sure to give this to them at the end of the meeting so they have something to refer to if they decide to take action on the issue.
- If your campaign for change gets support at the Parliamentary level the overall process can look like this: Community campaign → MPs/political party or parties pick up your issue and run with it → Law is drafted → Introduced to Parliament as a 'Bill' → goes through the process as described in the diagram in the next section below.

# How a bill becomes law

For further information:  
[www.parliament.nz](http://www.parliament.nz) or  
[parlinfo@parliament.govt.nz](mailto:parlinfo@parliament.govt.nz)





#### d) Making submissions to Select Committees

When new laws are first introduced to Parliament, they are called 'bills'. The bill goes through a Select Committee process in which MPs from across Parliament consider the legislation and make changes to it in response to submissions from the public and advice from government officials. Anyone can make written and oral submissions to Select Committees and to some of the other Working Groups and consultative bodies (like the WEAG) which governments set up from time to time.

Submitting to Select Committees is one of the most democratic and participatory aspects of the NZ political process. You can do it either as an individual or as an organisation, or both. Submissions can be made in writing and orally, and in person.

More advice on how to make submissions can be found here:

<https://www.parliament.nz/en/pb/sc/how-to-make-a-submission/>

#### Some tips about making submissions:

- Read the Bill and choose which parts (or all of it) are most important to your group.
- Your written submission can be any length from one to many pages.
- If you want to make an oral submission as well, let the Committee know that on the front page.
- Do your research.
- Focus – be very clear on what you're seeking to endorse, oppose, change or modify.
- Using information from the front line of individual advocacy can have a big impact, but be sure to maintain confidentiality, unless someone wishes to be identified.
- You may also encourage people with whom you work to make a submission themselves. This can be a very empowering experience if people have the right kind of support, and personal stories may have a big impact on MPs.
- Writing skills and document presentation are important.
- Oral submissions can be much more effective than written ones. The best thing is to do both.
- When making an oral submission, practise ahead of time and make sure you have the support you need from others.



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### e) Public speaking

The ability and willingness to speak publicly on behalf of your group and cause is one of the most useful attributes of successful collective advocacy. It is important that whoever is doing the speaking is accountable back to the group and that they speak in a way that is respectful of whoever the audience may be.

#### Some tips about public speaking:

- Know what you're talking about – do your research.
- Be aware of who your audience is going to be and prepare your talk for them specifically. Be respectful of the audience, and be sure to take cultural and language considerations into account.
- In most settings, find out how long you will be given to talk, and make sure you stick to that. Practising your kōrero ahead of time is always a good idea.
- Be clear in what you are saying, why, and what you're asking of or expecting from your audience.
- Provide opportunities for people within your group to upskill and practise public speaking. This can be good for capacity building in your organisation and empowering at a personal level.



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### f) Organising direct action

This can include demonstrations, rallies, pickets, street theatre, occupations, hīkoi and other forms of mobilisation. Such activities make explicit demands for political change and can also put up ideas for solutions or alternatives to what government (or other bodies) may be doing. Only some organisations will find this appropriate, but in many causes, past and present, direct action has been a critical factor in achieving change.

#### Some tips about organising direct action:

- Within your group do your best to achieve widespread understanding and consensus about your plans. Be clear on the exact purpose of what you're doing, and why.
- Have a public demand or set of demands that you are pursuing, so the outside world is clear on your purpose, your criticism of a situation, and what your solution(s) are.
- Have systems in place for good media and other communications work to happen before, during and after actions.
- Prepare for the action in detail, including timing, gathering points, speakers, placards and banners, chants and songs, and how you will manage the action while it is in process.
- The best support for groups who haven't done this sort of thing before is likely to come from others in your community who are experienced direct action organisers.



There are many other aspects to building the power of collective advocacy, including campaign and coalition building; how to set up and run new groups; how to work together to analyse and reflect in a way that deepens group knowledge; skills training; and tactical and strategic planning. There is not space to consider all of these here, but there are people and groups in the community who may be happy to help with education and training in these areas if your organisation has an interest, for example Community Think <https://www.communitythink.nz/>; Kōtare Research and Education for Social Change in Aotearoa [education@kotare.org.nz](mailto:education@kotare.org.nz) <http://kotare.org.nz/>.

It is also important to note that collective advocacy is not just something to use in relation to the policies and practices of government. Action for change can challenge any source of power, from local councils and other local interests which may be having negative impacts on our communities, through to corporate and transnational institutions. Underpinning themes may include the promotion of individual and civil rights; work for social, economic and environmental change; the promotion of a just, fair and ecologically nurturing society; and encouragement for people to take control over their own lives, in the interests of their own wellbeing and liberation.

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#### (ii) Individual advocacy

Working with people to access the support to which they are entitled from government and other agencies is a core task for people working in jobs like social and community work and disability and health support services. Some people come to this line of work from a trained professional background in areas like social practice, community development, nursing or law. Others become advocates as a result of personal and family life experiences. And some are simply driven by a moral imperative, a values base that demands they seek social justice through standing with those who have least in society. When people are motivated by all three of these factors – training/profession, personal experience, and values – they have the potential to become the most highly effective of individual advocates.

While this handbook is focused on individual advocacy with Work and Income, the same principles around how to carry out individual advocacy can be applied to other areas as well, including ACC, mental health, disability, tenants' protection and consumer rights.

There are a range of **skills** that can be really helpful if you want to be an effective individual casework advocate in any area.

These skills include being able to:

- Work with people in a way that is mutually respectful, treating them as equals in the process of advocacy rather than as 'clients' or people who are somehow worth less than you because they need your help just at the moment.
- Listen and communicate well. Get to the heart of the problem or problems the person is facing gently, taking your time and not being overly intrusive or offensive around, for example, someone's gender, ethnicity, culture, disability, sexuality or age.
- Make sure that the person you are working with is kept as fully informed as possible about what you are doing. Share information with them and let them know their options. Make decisions with them, not for them.
- Have the confidence to do all this. Often we become advocates because of our own experiences of welfare, unemployment, physical or mental illness, disability, homelessness or a mixture of these. We don't necessarily have a lot of confidence when we start this kind of work. This is where having a good support system around you plus access to training can be very helpful. Once you've got some experience, confidence builds quickly – although it's also good to remember that even the most experienced advocate will strike difficult situations and that we all need support and advice at times.
- Presenting a case and negotiating well – assertively but not aggressively. This lies at the heart of individual advocacy and some people find this easier to do than others. One of the biggest traps here is that it is easy to get sucked in to the worldview of the person you're negotiating with – the case officer on the

other end of the phone or the other side of the desk. To negotiate well it is important to:

- Have the facts – make sure you've got the information you need from the person you're working with. This can be one of the most difficult things to achieve as it often takes a while to build trust. People often have good reasons for not immediately sharing difficult but essential background info with someone they've just met for the first time.
- Know the law and regulation relevant to the situation. Handbooks like this one are useful, as well as having immediate access to the relevant Act or regulation and any important backup material like the various forms needed to cover a variety of circumstances.
- Having an internet connection via phone or computer so you can immediately check out government sites is highly recommended. Save key websites as favourites in your browser for quick access.
- Be willing to keep arguing the case clearly and well, even when faced with hostility and delaying tactics. Later on in this handbook we talk a lot about not taking 'no' for an answer. Of course there will be times when compromise is necessary and knowing how far and hard to push is another skill that comes with time, knowledge and practice.

Developing background **knowledge** in your area of advocacy is also tremendously useful, including:

- Law and regulation in the area in which you work.
- Knowing where you can go for advice if you can't suss out the next steps in a particular situation.
- Being familiar with the structure and chain of command in relation to the relevant department, school, DHB etc.– Who do you go to if you can't get past the case worker on the desk or phone? Who sits above them? Who is the local manager, the regional manager?
- Having an awareness of other groups and services in the community to whom you can safely refer a person for help when they've got issues in areas beyond those you can help them with.
- Having some understanding of the area you're working in beyond the immediate issues. Why does – welfare, ACC, housing access, mental health etc – work this way? What are the structures and how does government work in this area? What is the history of New Zealand's approach to this issue? What changes do we think should be made from the point of view of people who are most adversely affected? The link to the skills and knowledge needed for 'collective advocacy' is very clear here.

These skills and areas of knowledge can expand into a lifetime's work, so don't expect to be on top of everything from day one. Everyone starts somewhere as an advocate and most of us are able to do this work if we have good training and support systems around us. Being part of an organisation rather than trying to advocate on your own is always a good idea. Any capable group will always do its best to provide the kind of support you need, including advice and help with systems, materials, training, as well as

guidance around the ethics and values of what you're doing.

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### **(iii) Self-advocacy: Representing yourself at Work and Income**

As discussed above, self-advocacy is what happens for the vast majority of people when they approach Work and Income for assistance. There are ways in which a handbook like this can be useful in this situation, for example through:

- Providing background knowledge and tools so people can advocate more effectively on their own behalf. The more people who can access the information in this handbook and who find it a helpful resource to help them in their negotiations with Work and Income, the better, although it pays to be realistic about issues around literacy, English as a second language and confidence.
- We also hope that this handbook will be a resource that community groups can use with families and individuals with whom they work, to help train and uplift their understanding and knowledge of welfare law, policy and practice – and the skills of advocacy.

Anything which can be done to help people become stronger and more effective in their personal dealings with Work and Income (and other government departments and service providers) is to be welcomed, and we hope this handbook will help fill a gap in this area. We also hope that at some point resources like this may be translated into other community languages, helping to ease the knowledge gap for at least some of those whose first language is not English.

But it remains a hard fact of life that often the most difficult person to advocate for is yourself. If possible, have a friend or relative with you. They can act as a witness and can take notes of what you say, and what Work and Incomes says to you. You are more likely to get what you need when someone is with you.

It is also the case that the benefit system is hard to understand. It is punitive and judgmental. The reality is that most people go to Work and Income without any support. They are unlikely to know about all of their entitlements or understand how discretion could be used to get a 'yes' from Work and Income. Some people will have the strength to question decisions made. However, many people may not have that confidence and will leave the Work and Income office frustrated and angry and without the help they need. Some of those people then seek assistance from a benefit advocate, some then become advocates for others and some become activists working for systemic change.



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# Part B: Individual Benefit Advocacy

- How to do benefit advocacy
- Accessing the main adult benefits
- Youth benefit entitlements
- New Zealand Superannuation:  
Residential requirements
- Supplementary assistance
- Obligations and Sanctions
- Summary: Effective benefit advocacy



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## 3. How to do benefit advocacy

This section of the handbook turns to individual advocacy work when dealing with Work and Income on benefit issues,

The Social Security Act 2018 sets out benefit entitlements. It is not possible to write an advocacy handbook which covers everything in the Act. We have tried to focus on the most common issues and to provide a working strategy for supporting people to get what they are entitled to. We hope this will be useful to you. We also think that the most effective way to use the handbook is in combination with face-to-face group training and ongoing support for people doing this important advocacy work.

When doing benefit advocacy you will also be supporting individuals and whānau with housing issues. Many people are in situations where they have no option but to seek access to social housing. Social housing includes Kāinga Ora (previously Housing NZ) houses or housing run by a range of community housing organisations. Part C will focus on advocacy with MSD in this area.

We acknowledge that we are providing this information with the clear purpose of understanding how to deal with Pākehā law, systems and bureaucracy. People experiencing the negative effects of our current welfare system are living in poverty and we should do everything we can to lessen these negative effects. We believe we should also do everything we can to change this system.

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### (i) The relationship with Work and Income

The relationship with Work and Income is not a partnership. Some Work and Income staff will be easier to work with than others and personal relationships between staff and advocates will develop. It is important that you remain clear that your role is to actively

pursue the interests of the people you are supporting and be willing to challenge decisions made by any Work and Income staff member.

As an advocate, you will interact with a wide range of Work and Income staff including case managers, office managers, area managers, and regional commissioners. Their role is to action the law as set out in the Social Security Act 2018.

The current Act is punitive and benefit levels need to significantly increase. You are going to disagree with decisions made by Work and Income staff because the people you are supporting need you to do so.

It is important to understand that many disagreements between staff and advocates are based on differences around how the Social Security Act is interpreted. Work and Income staff will often interpret the Act one way, and beneficiary advocates another. Frequently advocates will know and understand the law and regulation better than the staff do. Work and Income staff will often say 'no' when they can say 'yes'. As an advocate, your job is to get them to say 'yes'.

It is critical that both you and your organisation develop a good reputation for questioning and challenging Work and Income decisions on the basis of a sound understanding of law and regulation, rather than too quickly accepting what staff tell you, or trying to support people without having enough knowledge of how to fully assess and present their situation to Work and Income. As your confidence increases and your group's reputation grows, the people you support become more likely to get what they are legally entitled to. Your organisation will also become known in the community as a place people can confidently go for help when they have problems with Work and Income, as well as somewhere which may be able to help other groups learn more about how to carry out effective beneficiary advocacy.



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## (ii) Solidarity

As an advocate, you share a common interest with the people you support. That common interest is to actively pursue social justice. It is unjust when a family goes hungry or remains homeless because they can't get what they need from Work and Income. Your allegiance and accountability is to the people you are supporting. It is from this position of solidarity that you can be an effective advocate. Actions consistent with solidarity include:

- Individual support for people receiving or seeking a benefit entitlement from Work and Income.
- Encouraging people to express their needs confidently and assisting them to meet those needs.
- Advice and action, including reviews and appeals of decisions made by Work and Income.
- Raising public awareness through media commentary and public demonstrations.
- Direct action: disrupting the institutions and processes that oppress people.
- Offering alternative ideas to the current system.

### No 'clients' here

We believe it is not possible to act in solidarity if you think of, and talk about, the people you are supporting as 'clients', 'customers' or 'cases'. This sets up the likelihood that you become distanced from the people you are supporting, and may come to see yourself as somehow superior to them without even meaning to. Work and Income staff talk about people as their 'clients' and make negative value judgements about them. As an advocate, you should take a very different and far more respectful approach in how you think about, talk about and interact with the people needing your support.



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### (iii) Talk with the person you are supporting: Ask relevant questions

Frequently someone will contact you asking for help with a particular need. It is important to remember that people don't know what they don't know. People will be unaware of many possible entitlements. For example, a grandmother might not know she is eligible for Unsupported Child Benefit payments for caring for her grandchild or a working family might not know they are potentially able to get the Accommodation Supplement. That initial contact is a chance to sensitively and politely ask relevant questions about a range of possible entitlements. We will go into the details of benefit entitlements in the next section.

You could say something like, 'Today I will focus on trying to get the beds your kids need, but I also want to make sure you are getting everything else you are entitled to by asking you a few other questions.'

Examples of other questions include:

- Do you know what benefit payments you are getting? (Many people don't know what they're getting from Work and Income).
- Are you working? How much do you get paid before tax? (Depending on before tax income there are many possible benefit entitlements, e.g. Accommodation Supplement).
- Do you have children living with you? Are you the parent of the children? Do the children have any health problems? (Payments relating to the care of children include Family Tax Credit, Child Disability Allowance and Unsupported Child Benefit).
- Do you have any health problems? How long have you had this health problem? (Possible health-related benefit payments include Supported Living Payment and Disability Allowance).

While you are with the person you are supporting, you can enter information into **Check what you might get** as you go along.

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#### (iv) Using Check what you might get

**Check what you might get** is a Work and Income tool for finding out what someone's benefit entitlements are.

<https://check.msd.govt.nz/>

This is simple and easy to use and is accurate. But remember that just because it shows a possible entitlement, applications for benefits still need to be made and you are still going to have to deal with Work and Income staff to actually get these entitlements. Using this tool when first talking with the person you are supporting is an easy way to cover a lot of possible benefit entitlements and to then identify how best to support the person.

**Check what you might get does not deal with possible eligibility for arrears payments which we cover later on.**

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#### (v) Authority to act

You will need to get the person you are supporting to sign an authority to act enabling you to obtain and exchange information with Work and Income staff. Suggested wording is:

'I, (name of person) authorise (name of advocate) and any other advocate working at (name of agency/group) to act on my behalf in regards to my benefit entitlements. I specifically authorise these advocates to obtain and exchange information with Work and Income staff.

The person signs and dates this and you should then email it to the relevant Work and Income manager. The authority to act should have the person's name and MSD number at the top and the person's signature at the bottom.

During Covid-19 Level 3 and 4 lockdowns Work and Income staff have accepted verbal authority to act – you simply tell them the person has said you can act on their behalf. MSD may subsequently verify this with the person directly.

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#### (vi) Manager and assistant-manager contact lists

These can be obtained from the MSD Regional Office. The lists have phone and email contact details for all the Work and Income office managers in your region. When you need to make direct contact with managers don't waste your time using the 0800 number.

It is also useful to get names and contact details for more senior management including the Area Manager and Regional Commissioner so that you can quickly get in touch with a person at the appropriate level while in the middle of negotiating a particularly difficult situation.

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#### (vii) Advocacy during the Covid-19 pandemic

It is unlikely that Work and Income will be letting large numbers of people needing

support into their offices any time soon for obvious public health reasons. The current opportunity to have face-to-face appointments is minimal. The vast majority of benefit advocacy work will be done using emails, texts and phone conversations. If the person you are supporting has an email address include them in all emails sent to Work and Income. As an advocate, you won't be present when they phone the person you are supporting.

Before contacting Work and Income you should discuss with the person you are supporting precisely what they need and get enough background details so that you can email managers giving the information needed. This increases the likelihood of getting a 'yes' response. The signed authority to act should be attached to this initial email.

You should do your best to prepare the person for the phone call they will get from Work and Income by trying to predict the sort of questions they will be asked. Provide reassurance that you will stay in contact and that you're interested in hearing what the outcome is.

For example, if a family needs a food grant you need to know what their income is for that week and how the money has been spent and how much of a Food grant is needed. Include this information in the email you send to Work and Income.

For immediate needs like a food grant Work and Income will contact the person within 24 hours. For other, less urgent things, they will take up to five working days to contact the person. It is essential that you maintain contact with Work and Income and the person you are supporting during this time. You may need to contact Work and Income several times to make sure they actually do contact the person. They may only try to phone the person once or twice and if they don't get an answer just stop trying to phone the person. Make sure there is a positive outcome – that Work and Income said 'yes' to

what was needed. Do this by getting emailed confirmation from Work and Income. Do not accept a vague statement like 'needs have been met'. You should also talk to the person you are supporting to make sure they are happy with the outcome.

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**(viii) Effective advocacy: Don't take 'no' for an answer**

Central to the advocacy method we use is the approach of 'no is the wrong answer'. Meekly and quietly accepting a 'no' from Work and Income when you know your case is justified is not an option. This method is easily transferred to advocacy on other issues, including housing.

Knowledge of benefit entitlements is of little use if you are reluctant to challenge decisions. We suggest you maintain contact with an experienced advocate whilst you develop the skills and confidence to challenge decision-makers.

Prepare your argument and include all supporting documentation when you initially contact Work and Income. Work and Income can be seen as a paper-eating machine. If you feed it the right bits of paper then you are much more likely to get to a 'yes'. If necessary, use your agency's letterhead to write a letter summarising all the relevant information/documents you have.

Work and Income will frequently say that it is not possible to say 'yes' because their policy does not allow them to do so. As advocates, we are not interested in policy. What we are interested in is what the Act says and what the written Programmes, Regulations and Ministerial Directives say. Frequently Work and Income 'policy' does not line up with what is actually in the Act and these other documents.

When a case manager has said 'no', go on to involve the office manager in the discussion. You should also consider going further up the Work and Income management chain by, for

example, contacting the Area Manager or Regional Commissioner. During the current pandemic this will be done via emails, texts and phone calls. Explain why the decision to say 'no' is unfair and/or is contrary to what the Act, Ministerial Directive, Programme or Regulation allows for. Emphasise that it is possible for them to say 'yes', and make it clear that you will be challenging the 'no' with a Review of Decision.

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**(ix) Review of Decision (ROD): Sections 301-394 of the Act**

Just as the initial benefit advocacy approach is 'no is the wrong answer', the basic principle for using the ROD process is that when Work and Income unjustifiably delivers a 'no' decision, you will immediately lodge a ROD – and let them know you are doing it. However, it is important to make sure you talk with the person or people you are supporting first to make sure they understand and support what you are doing, as ethically and legally you cannot challenge Work and Income decisions without having their OK.

Reviews of Decision are a very important part of the benefit advocacy process. Work and Income staff and particularly managers do not like it when an ROD is lodged. It is seen as a complaint and it is (or should be) recorded in official statistics. The number of RODs lodged at any particular Work and Income office can be seen as reflecting badly upon the manager(s) at that office. By consistently lodging RODs over a period of time you significantly increase the chances of the people you are supporting getting a 'yes' from Work and Income.

The ROD form is available online <https://www.workandincome.govt.nz/documents/forms/review-of-decision-application-form.pdf>

Otherwise, you can simply email Work and Income managers to inform them that a decision needs to be reviewed. Sometimes just doing this is enough to get a decision changed. The ROD process can be lengthy and

Work and Income has to write a detailed report which involves considerable amounts of time and expense. For example, reviewing a decision to decline a \$300 food grant may cost Work and Income several thousand dollars of staff time and resources.

Once Work and Income has made a decision to say 'no' to an application for any benefit there is a 13 week period within which you can lodge a Review of Decision. After 13 weeks you will need to lodge an application to have the review heard 'out of time'. This means going to a Benefit Review Committee hearing to explain why the review wasn't lodged within 13 weeks. The BRC will expect you to have a good reason for not having met the 13-week deadline, which means the initial decision may never be reviewed.

The ROD process involves an initial reconsideration by the office manager. If the manager agrees with the 'no' decision then the ROD goes to the Regional Office where a report is written. Both you as the advocate and the person you are supporting should receive a letter acknowledging receipt of the ROD and the subsequent decision, including whether it has been overturned or will go on to a Benefit Review Committee.

At any time during the ROD process you can provide additional information.

It can happen that Work and Income will not follow up on an ROD even though they should. You may need to contact them several times to ask for an updated progress report. Each ROD is given a 'Here Is Your Answer' (HIYA) number. Ask for that number and use it whenever you want information about that particular ROD.

**A Benefit Review Committee (BRC)** consists of two Work and Income staff from an office not involved in the original decision and one 'community representative'. Before going to a BRC hearing you and the person you are supporting will receive the detailed report referred to above. The report will explain why

Work and Income believe they were correct to say 'no' and refer to the sections of the Social Security Act which support their decision.

As the advocate, you will need to look at how Work and Income has interpreted the law and be willing to challenge that interpretation. You may need or want to talk with an experienced advocate to get advice and support the first few times you support someone at a BRC hearing but try not to get too stressed out. There are no lawyers present and a case manager will present the Work and Income case. The BRC is relatively informal, but it is very much a situation where Work and Income is reviewing itself.

While you are unlikely to have many successes at a BRC because of the way the system works it is the fact that you are showing a willingness to go through this process which will mean that people you will support in the future will be more likely to get a 'yes' from Work and Income.

Using the ROD process is a key part of an advocacy strategy that challenges the inherent injustice of a benefit system that keeps people in poverty.

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#### **(x) Social Security Appeal Authority (SSAA) Sections 397-404 of the Act**

It is possible to appeal against a decision made by a BRC. This is done by lodging an appeal with the SSAA. There is a 60-day period from the date of the BRC decision to lodge the appeal, although this period can be extended.

We strongly recommend that you get advice from an experienced advocate or from a Community Law Centre if you are thinking about doing this. You will probably need help the first few times you do this. Even for experienced advocates, it is a good idea to discuss what will be needed with someone else. The SSAA is part of the Ministry of Justice. This means that it is not under the

direct control of Work and Income, unlike the Benefit Review Committees where Work and Income staff are in the majority.

Further appeal rights exist by going on to the High Court and Supreme Court. Going to these courts means having at least one lawyer directly involved.

Important and useful legal precedents which can have beneficial impacts for many welfare recipients have been set by going through these court processes.

Taking cases to the SSAA is one of the most powerful tools beneficiary advocates and advocacy organisations can use.

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#### **(xi) Reviews of Decision: Medical or disability issues**

If Work and Income has said 'no' to an application for a benefit payment related to medical or disability issues (eg Child Disability Allowance or Supported Living Payment) then the Review of Decision is heard by the Medical Appeals Board. This is made up of 3 doctors who are on the Work and Income list of Designated Doctors. A Designated Doctor is paid to provide a second opinion after Work and Income does not accept the initial medical information provided. Designated Doctors are not independent and are definitely not on the side of the person you are supporting.

When you are working with someone who is applying for a medical or disability-related benefit it is best to put together as much medical information as possible. A form filled out by a GP or a letter from a GP by itself will frequently not be enough for Work and Income. Letters from specialists, nurses, counsellors, occupational therapists, and anyone else you can think of will help.

Decisions made by a Medical Appeals Board can only be challenged by Judicial Review in the High Court. If you are thinking about doing this contact an experienced advocate or a Community Law Centre.

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## 4. Accessing the main adult benefits

As an advocate, you need to know the basics of the relevant law, which is contained in the Social Security Act 2018. You can access the Act through an internet search, and there is a link to it at Appendix [A]. We will go through some of the relevant sections of the Act and explain what the Act says as simply as we can.

There are four main types of adult benefit payments which are regular weekly payments:

- Jobseeker Support
- Supported Living Payment
- Sole Parent Support
- Emergency Benefit.

There are also the Unsupported Child Benefit and Orphan's Benefit and additional weekly benefits which are called 'supplementary payments' (Accommodation Supplement, Disability Allowance, Child Disability Allowance, Temporary Additional Support) and one-off assistance (Advance Payments and Special Needs Grants). These will be covered in the next sections.

There are obligations and sanctions related to the first four main benefits and we'll discuss these after going through each one of these benefits.

Before going any further, however, it is useful to be aware of the residential requirements behind the benefit system, so you can identify whether or not a person is eligible for support in Aotearoa NZ in the first place.

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### (i) Residential Requirement

#### **Residential Requirement, Section 16 of the Social Security Act 2018**

To be eligible for a main benefit you need to meet the 'residential requirement'. For most people this will not be an issue. Most of us are either NZ citizens or permanent

residents; and have lived here for at least two years since becoming a citizen or permanent resident; and usually live in NZ. Work and Income talk about this as being 'ordinarily resident' in NZ.

NZ citizens include people from the Cook Islands, Niue and Tokelau. Even if they haven't lived in Aotearoa NZ for two years they will still be eligible for the Emergency Benefit which is outlined below.

People who have come to Aotearoa NZ as a refugee or as a 'protected person' under the NZ Immigration Act 2009 are also eligible to receive a main benefit. This eligibility might be for the Emergency Benefit.

Other people will have benefit eligibility because they have come from a country which NZ has signed a reciprocal agreement with. These countries are:

Australia, Canada, Denmark, the Republic of Ireland, Jersey, Guernsey, Greece, Malta, the Netherlands, South Korea and the United Kingdom.

There are differences between these agreements. You will need to search the internet for details of each one. The agreements generally relate to people eligible for New Zealand Superannuation or Supported Living Payment or their equivalent in the other country.

Remember to use the ***Check what you might get*** webpage to confirm the range of benefit entitlements for which each person you are supporting has eligibility. We will now go through these.

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### (ii) Jobseeker Support

#### **Jobseeker Support (JSS): Sections 20-28 of the Social Security Act.**

JSS is a combination of the old Unemployment Benefit and the Sickness Benefit. Someone can get JSS if they are not working full-time or if they have lost all or

some of their pay because of an illness or injury. 'Full-time' means working 30 hours or more each week. They must also be a citizen or permanent resident and usually live in Aotearoa New Zealand. They must be at least 18 years old if they don't have any children or at least 20 years old if they do have children in their care.

JSS also covers people who are temporarily unable to work, for example someone with a broken leg which will be fixed within a few months. There is another benefit, Supported Living Payment (SLP) for people who have an injury, disability or illness that will last for at least two years. We will give details about this shortly.

It is not uncommon to find people who have wrongly been on the JSS benefit for a long time because of health problems when they should have been on the SLP which is paid at a higher weekly rate. If Work and Income have got it wrong then you should actively pursue getting the difference between JSS and SLP as an arrears payment. As at July 2021 for someone aged 25 or over this came to an extra \$58.15pw. Exact figures on this will change, but the principle will remain the same unless the differential between JSS and SLP is removed by law.

We will talk about arrears payments in more detail later on.

Sometimes Work and Income will talk about people being on Jobseeker Support with a medical exemption. The exemption is a medical certificate from a doctor. The first two medical certificates can last for four weeks each. After eight weeks the doctor can give medical certificates lasting up to 13 weeks.

People can't get JSS if they are on strike or on leave from their job to do 'employment-related training'.

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### (iii) Supported Living Payment

**Supported Living Payment (SLP): Sections 34-42 of the Social Security Act. This was previously called the Invalids Benefit.**

**There are three reasons why someone is eligible for a SLP:**

1. Injury, disability or illness that is expected to last at least two years and means they can't work more than 15 hours per week in 'open employment'. There used to be a lot of work for people with impairments which was called 'sheltered employment' which is why the term 'open' is used in relation to paid work.
2. Terminal illness which means they will pass away within two years.
3. Caring for another person who would otherwise need to be in residential care. This does not apply to couples, either married or in a marital-type relationship. We will talk about 'marital-type relationships' and other issues around this shortly.

Eligibility for SLP begins at age 16. A severely disabled child should be receiving the SLP from the time they turn 16. They are eligible for an arrears payment if that is not happening. An example of this is could be if a child with a disability that meets the above SLP criteria is living with their parents. They continue to receive Child Disability Allowance after they turn 16 and the Work and Income case manager does not mention the possibility of the child getting the SLP.

Their parent(s) or caregiver can charge them board which opens up eligibility for the Accommodation Supplement, further increasing the amount of money coming into the house.

Work and Income usually make it difficult for people to get on to the SLP by asking for additional medical information and/or making the person you are supporting see a doctor who is paid by Work and Income. These 'designated doctors' are not independent and will look for a reason to decline the SLP application. Work and Income also employs Regional Health Advisors (RHA) who will review all applications for medical-related benefits. They are likely to contact the GP and hassle them to change their mind about the medical grounds for SLP eligibility.

So, as an advocate, you should help the people you are supporting to get together as much medical information as possible. Just relying on a letter from a GP is unlikely to be successful. Examples of other medical information are: specialist reports, letters from nurses, physiotherapists, occupational therapists, psychologists, counsellors, social workers, church ministers, and family.

If you can get some other reports or letters confirming eligibility for SLP we suggest you then write a letter summarising the information you have and email everything to the relevant Work and Income managers. But if all you have is the GP letter the application for SLP should still be made. Just be aware that Work and Income can make it difficult.

The SLP application form has a section for a doctor to fill out. As an advocate, you should read the completed form, preferably with the person you are supporting alongside you, and make sure that the doctor has said that the person is not expected to be able to work in 'open employment' for two years. It may be necessary to go back to the doctor.



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#### (iv) Sole Parent Support

**Sole Parent Support (SPS): Sections 29-33 of the Act. This was previously called the Domestic Purposes Benefit – the DPB.**

Section 8 of the Act deals with Work and Income having the ability to decide if someone is single or in a 'de facto relationship'. Do remember that just because Work and Income have decided that a couple is in a relationship does not make it true.

To be eligible for SPS you need to be at least 20 years old, and have the sole care of one or more children under the age of 14. The majority of people receiving this benefit are women and they are subjected to lots of negative judgements. This is reflected in the way Work and Income treats sole mothers and the risks they face of an investigation by the MSD Fraud Unit.

Sole parents currently have obligations to find work once their youngest child is three years old. However, work obligations have to be reasonable and anything that Work and Income tells a sole parent to do regarding work must fit in with their need to care for their children.



Women on Sole Parent Support face a high risk of being investigated by the MSD Fraud Unit because someone has doxed them in for being in a 'marital-type' relationship. The Fraud Unit staff are highly likely to investigate and try very hard to prove a marital-type relationship exists and will make the woman's life a misery during an investigation.

The legal test for a marital-type relationship can become quite complex. There needs to be both an 'emotional commitment' and 'financial interdependence.' Work and Income staff frequently do not understand what is meant by 'emotional commitment' and 'financial interdependence.' Emotional commitment means that both people in a relationship deeply care about the other person and have made a long-term commitment to each other.

Financial interdependence means that both people in a relationship share their financial resources. Examples of this include having a joint bank account and making payments into the other person's bank account. But both of these could, for example, be explained by two people flatting together and sharing living expenses. The existence of a marital-type relationship can be hard to prove or disprove. Remember: it is Work and Income that has to prove the relationship exists.

It is our job as advocates to support the sole parent through what can become a traumatic experience. It is also our job as advocates to make sure people we're working with are aware of the risk of a fraud investigation and what that might involve.

As just mentioned a marital-type relationship must have both an emotional commitment and financial interdependence. This should be similar to a good marital relationship. Sexual, physical, financial and physical abuse are clear signs that a marital-type relationship does not exist. If both financial interdependence and an emotional commitment are not present in the relationship then the relationship should not affect eligibility for Sole Parent Support.

Sole parents have the same basic rights as everyone else. They have the right to maintain a relationship with the other parent for the purpose of parenting the child(ren). They have the right to have friends. They have the right to have a boyfriend or girlfriend and the right to have sex. A marital-type relationship is much more than just having a boyfriend or girlfriend.

The Privacy Commission in 2019 released results of an enquiry into how MSD (Work and Income) has been misusing its powers to get information when investigating fraud allegations. MSD (Work and Income) investigates up to 5100 fraud allegations each year and the vast majority of these are investigations of women on Sole Parent Support. MSD (Work and Income) has powers to access all sorts of information, including text messages, power and phone bills, anything posted on social media, medical records, bank accounts, domestic violence and other Police records.

Schedule 6 of the Act gives MSD (Work and Income) very intrusive powers to investigate whether someone is in a de facto or marital-type relationship. There is also a Code of Conduct that can be found in Clause 2 of Schedule 6 of the Social Security Act 2018. This Code of Conduct was updated in response to the Privacy Commissioner's report and now says it is not OK for Work and Income to get a service provider (eg a phone company) to give information without first asking the person whose phone it is for the information. This means that the person you are helping should know that Work and Income is about to start snooping around. This is a good time to get advocacy and/or legal support.

The sole parents you are supporting should be told about the risk of Work and Income looking into all aspects of their life based on an anonymous phone tip-off. At the start of an investigation, the person you are supporting will be contacted by Work and

Income, probably someone from the Fraud Unit, and be given an opportunity to explain their relationship situation. As an advocate, you should go with the person to any potentially fraud-related interview. The staff of the Fraud Unit are highly likely to try and intimidate the person and get them to say things that could get them into serious trouble.

They might say something like 'If you come clean now then we won't take you to Court.' They may say other things to pressure the woman to admit that they are in a marital-type relationship. This is why as an advocate you should be clear about what 'emotional commitment' and 'financial interdependence' mean; in discussions with the person you are helping, and in your/their dealings with Work and Income.

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#### **(v) Emergency Benefit**

##### **Emergency Benefit: Sections 63 and 64 of the Act.**

When Work and Income decides that the person you are supporting is not eligible for any other benefit you should support them to apply for an Emergency Benefit.

The Emergency Benefit is available to people experiencing hardship. It is important to be aware that the residency requirement (see above) applies. Examples of people who can get the Emergency Benefit include refugees and other permanent residents or citizens who have returned from overseas.

The rate of the Emergency Benefit is discretionary. This means it depends on the person's circumstances. The amount of Emergency Benefit paid cannot be more than the rate of the main benefit – Job Seeker Support, Supported Living Payment or Sole Parent Support – that they would have been entitled to otherwise.

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#### **(vi) Unsupported Child Benefit**

Unsupported Child Benefit (UCB): Sections 46, 47 and 48 of the Act.

When a child's parent(s) can't care for their child or children then another adult can be eligible to get UCB weekly payments. You are not eligible for the UCB if you are a step-parent or have legally adopted the child or children. There will need to be some sort of proof to confirm that the parent(s) can't care for the child. This proof can be a letter from the parent, a letter from another family member or other written documentation.

Work and Income will probably ask a Barnados social worker to assess if there is a 'family breakdown'. We strongly recommend that an advocate is present when a family breakdown assessment is done in order to make sure that all the relevant information is presented.

There has to be an intention to care for the child(ren) for at least one year. The applicant has to be at least 18 years old. Both the child(ren) and the caregiver have to meet residency requirements.

Examples where UCB applies are whāngai children and grandparents caring for grandchildren. It is fairly common for people to not receive UCB payments to which they are entitled and for Work and Income not to inform them about potential UCB eligibility. The possibility of getting an arrears payment should be explored. As an advocate, you should ask how long the child has been in the person's care and confirm if and when UCB payments began. If Work and Income have got it wrong, then apply for an arrears payment. UCB arrears payments can amount to tens of thousands of dollars. We give more information about arrears payments later in the handbook.

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### (vii) Orphan's Benefit

#### **Orphan's Benefit: Sections 43, 44 and 45 of the Act.**

The Orphan's Benefit is similar to the Unsupported Child Benefit, the difference being that the parents have passed away. To be eligible for this you need to be at least 18 years old and meet residency requirements. There must also be an intention to care for the child for at least one year.

For the child's carer to be eligible for the Orphan's Benefit the child cannot be over 18

years old and the child has to meet residency requirements.

*In addition to the adult benefits it is also important to know about benefit entitlements for youth and know about eligibility for New Zealand Superannuation.*

We would like to acknowledge and thank Youth Law for their assistance with the information regarding Youth Payment and Young Parent Payment.

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## **5. Youth benefit entitlements**

### (i) Youth Payment

Youth Payment: Sections 49-55 of the Act.

There are many reasons why young people need to live away from their parents/guardians. At 16 young people can choose to leave home without their

guardian's consent. Moving out of a guardian's home without any financial support can be very difficult for a young person. If they are under 16, other benefits such as the Unsupported Child Benefit may have to be considered. However, 16 or 17-year-olds may be eligible for a Youth Payment (the Act does not call it a benefit) if they are 'study ready', have no dependent children, meet the residential requirement, and have no (or very little) income. Being 'study ready' means that the young person must be in or be available for full-time education, training, or doing an NCEA level 2 qualification for work-based learning. If a young person receives income for a temporary period (eg a short-term job) but otherwise meets the other requirements for a youth payment, they should still be able to get the payment.

Section 53 of the Act allows for Work and Income to approve a Youth Payment because of hardship to someone who does not meet the residential requirement. This is similar to the adult Emergency Benefit (see above).

If young people are single (not married and not in a civil union or de-facto relationship), they can get the Youth Payment if there is a 'parental support gap'. Proving the existence of a parental support gap (see Section 52 of the Act) is the most difficult part of the



application process. The Act says a parental support gap exists when the parents/guardians are not willing to provide financial support. A parental support gap also exists if the young person was subject to an Oranga Tamariki Act order or agreement (care and protection orders).

When Work and Income considers the application they will make contact with the parents/guardians of the young person. For Work and Income to find that there is a parental support gap, the parents basically have to admit that there have been problems at home and that they cannot/or refuse to financially support their child. Parents may be unwilling to admit to problems, as this could reflect badly upon them and potentially affect their own benefits/entitlements.

The Act says a parental support gap does not exist when the young person 'chooses not to' live with their parents/caregivers. Getting on to the Youth Payment can be very difficult. As an advocate, you may need to talk with parents/guardians or get confirmation of problems at home from other family members or from other sources (eg school, community services, sports coach, church leaders etc.). Sometimes Work and Income will accept evidence from these other sources if the problems at home are established and there is a history of issues.

If young people are in a relationship (married, civil union, or de facto) they can receive the Youth Payment if they are not in a relationship with a 'specified beneficiary'. A 'specified beneficiary' means someone who receives an Emergency Benefit, Jobseeker Support, Supported Living Payment, Superannuation, or the Veteran's Pension. When applying for a benefit, young people need to provide a court order from a Family Court Judge which recognises the relationship. Young people in a recognised relationship do not need to show that they have a 'parental support gap'.

If a young person receives the payment, there are many obligations they are subjected to. They must attend study or school. They must attend appointments with 'contracted service providers' who will manage their money, and they must accept budgeting advice. (See Section 162 of the Act). The Act treats them like children and not as the young adults they are.

Many young people are either unable to get the financial support they need or reject how they are treated by the welfare system. You can see them wandering around, homeless in our cities and caught up in the 'justice system'.

A young person is not entitled to a Youth Payment once they turn 18 except in limited circumstances (Section 54 of the Act). As an advocate, we recommend you should be supporting the young person to move on to Jobseeker Support which is paid at a higher rate than the Youth Payment. For example, at the time of writing, the maximum weekly rate for the Youth Payment is \$177.03 and for 18-19-year-olds not living at home, the Jobseeker Support weekly rate is \$213.10.

If a young person was under care and protection orders, they may also be eligible for transition into adulthood support from Oranga Tamariki.

*Decisions about benefit entitlements for youth are often made by 'contracted providers' that are community-based groups who have decided to take up contracts from MSD. It is important to remember that decisions made by these community-based groups can be challenged using the Review of Decision process discussed above.*

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## (ii) Young Parent Payment

### **Young Parent Payment: Sections 56-62 of the Act.**

Young parents of at least one child, who are study ready, have no minimum income, meet

the residential requirement, and are aged from 16 to 19 years may be eligible for the Young Parent Payment. There are different rates of benefit payable depending on the young person's age, relationship status, and whether there is a parental support gap. Work and Income has discretion in relation to the residential requirement on the grounds of hardship (Section 60). Less money is paid to the young parent if they are living with or being supported by their parent or guardian or partner (who is not a specified beneficiary).

Just as for the Youth Payment, there will need to be proof of a breakdown in the relationship between the young parent and their parents/guardians if they need to apply for the higher rate of Young Parent Payment. It is also possible for the young parent to be found to have a parental support gap if they are living with or being financially supported by a parent/guardian, but the income of the family needs to be below a certain threshold (section 59(b)).

Section 163 of the Act sets out obligations young parents have. These include obligations to attend a school-based Teen Parent Unit once their child is six months old or to attend school or other education when their child is one year old. The other obligations as for the Youth Payment also apply.

When a young parent turns 20, they are no longer entitled to the young parent payment except in limited circumstances (section 61). As an advocate, you should support the young parent to apply for and receive the adult rate of Sole Parent Support as this will give them a higher rate of benefit. At the time of writing the current weekly rate of YPP is \$202.34 and the Sole Parent Support rate is \$375.17. This will also give them greater freedom from Work and Income obligations.



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### (iii) Incentive payments – young people

#### **Incentive payments: Social Security Regulations 2018, regulation 12.**

A young person receiving the youth payment or young parent payment may be eligible for incentive payments in regards to learning, budgeting, or parenting education (only in the case of young parent payment) if they can show that they are meeting the payment obligations. Incentive payments are \$10 a week. This incentive payment is unlikely to cover the cost of travel to these activities.

## 6. New Zealand Superannuation: Residential requirements

### New Zealand Superannuation: New Zealand Superannuation and Retirement Income Act 2001

<https://www.legislation.govt.nz/act/public/2001/0084/132.0/DLM113924.html>

The residential requirement to be eligible for New Zealand Superannuation is different from other benefits. (See Section 8 of the NZ Superannuation and Retirement Income Act 2001). To be eligible for NZ New Zealand Superannuation you must have lived in NZ for at least 10 years since the age of 20 and have been both 'resident and present in New Zealand for a period or periods totalling not less than 5 years since attaining the age of 50 years in any 1 or more of New Zealand, the Cook Islands, Niue or Tokelau'. In our experience, it is the issue of having lived in NZ for at least five years since the age of 50 that Work and Income will frequently use to deny eligibility for NZ New Zealand Superannuation.

Work and Income staff may not understand the difference between 'resident', 'present' and 'ordinarily resident'. Each of these has a very specific meaning that is very different from the others.

- To be 'resident' in NZ simply means that the person lives in Aotearoa NZ. Aotearoa NZ is their home. Going overseas on holiday, for example, does not change that.
- To be 'present' in NZ means being physically present in Aotearoa NZ.
- To be 'ordinarily resident' in Aotearoa NZ means Aotearoa NZ is the country where the person usually lives even if they are living in another country for a period of time.

To be 'ordinarily resident' in Aotearoa NZ while living in another country the person must be able to show a clear intention to return to Aotearoa NZ at some time in the future. There is no specified time limit within which the person must come back to Aotearoa NZ and each situation depends on its particular circumstances. Work and Income may wrongly deny people eligibility for New Zealand Superannuation but with advocacy support, it is possible to argue that



the person is ordinarily resident in Aotearoa NZ despite living overseas for a period of time.

If Work and Income decides the person you're supporting doesn't meet the above residential requirement it is possible to get the Emergency Benefit paid at the New Zealand Superannuation rate.

People qualify for New Zealand Superannuation on their 65<sup>th</sup> birthday and can apply for New Zealand Superannuation three months before that date. They should do this as soon as they can to avoid any delay in starting to get paid. New Zealand Superannuation is a universal benefit which means that everybody who meets the residential requirement, is a citizen or permanent resident, and is 65 or older qualifies. It doesn't matter if they are working or have savings or assets. People can continue working and get New Zealand Superannuation. They'll just pay more tax.

There are three rates of New Zealand Superannuation payment (see Schedule 1 of the Act). These are for people who are single and live alone or with a dependent child; people who are single but live with someone who is not their partner; and for a couple where one or both of them qualify.

People on New Zealand Superannuation, depending on their circumstances, are eligible for all other benefit entitlements (eg Accommodation Supplement, Disability Allowance, Unsupported Child Benefit, Food grants etc).

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## 7. Supplementary Assistance

There are a range of weekly payments which you can get in addition to the Main Benefits.

### (i) Accommodation Supplement

#### Accommodation Supplement (AS): Sections 65-69 of the Act.

The AS is a weekly payment to assist with paying housing costs. These costs include rent or board payments. If you own your home then the housing costs include mortgage payments, council rates, insurance and maintenance costs.

To get the Accommodation Supplement Work and Income will want written proof of accommodation/housing costs. For example, if you are renting then they will want to see the Tenancy Agreement. If you are boarding then they will want to see a letter from the person you are boarding with.

People can be eligible for AS if they are on a benefit or a low wage. The easiest way to find out if the person you are supporting is eligible is to use the **Check what you might get** website. Just answer the questions and you will get information about the amount of AS that Work and Income will pay. An application for AS will still need to be made. **Check what you might get** is useful to show people who are in paid employment what they may be eligible for.

Many people in paid work and their families are missing out on hundreds of dollars each week because they don't realise they are just as eligible for the AS as people who are receiving benefits.

Tenants of Kāinga Ora (Housing NZ) houses or other social housing where they pay an Income Related Rent are not eligible for AS payments but people who are boarding in social housing are. For example, adult children living at home with their parent who is a

Kāinga Ora tenant should be paying board, and will probably be eligible for AS payments.

Board is the combined cost of rent and food. 62% of the board cost will be used to calculate AS eligibility. It is not helpful to tell Work and Income that board includes power, internet and other costs because they may then ask how much these other costs are, then proceed to deduct these from the AS eligibility calculation.

It is wrong for Work and Income to do this because there is a legal assumption that the actual accommodation cost is 62% of the total board payment. Work and Income can deduct these costs if the person is paying rent, but not when a person is paying board. A letter confirming a board cost should only refer to the rent and food costs. Be careful not to create additional unnecessary hassles when applying for AS. A board cost should be an accurate reflection of the market rent costs and of the actual costs of food.

Each person who is boarding in a house is eligible for AS payments.

If the person you are boarding with is getting benefit payments from Work and Income then that person can have two people paying board without that affecting their benefit.

However, a board payment from a third person will mean that their benefit payment will be reduced, as a third board payment is treated as income by Work and Income.

People living in boarding houses should be paying rent rather than board unless food is included in the accommodation cost. As an

advocate, work with the person you are supporting to check with Work and Income to confirm whether or not they have calculated AS payments correctly.

It is important to remember the difference between rent and board is that board includes food costs. If food is not included, then it is rent.

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## (ii) Disability Allowance

### **Disability Allowance (DA): Sections 84 – 89 of the Act.**

DA pays for costs related to an illness, disability or injury which is expected to last at least six months and for ongoing medical treatment as needed. A doctor, usually a GP will need to sign the application form and confirm what costs are to be included. All costs need to be verified in writing.

The purpose of the Disability Allowance is to allow the person to 'undertake the everyday functions of life'. If there are additional costs involved to achieve these 'everyday functions' then those costs should be included in the assessment for DA.

DA costs include more than just the payment for seeing a doctor and prescription/medicine costs. Other possible DA costs include travel to appointments, car parking, counselling, gym membership, lawn mowing, heating, laundry, special diets etc. As an advocate, talk with the person you are supporting about all possible costs and get the GP to sign off on all DA costs. When you push for all DA costs to be included don't be surprised if Work and Income through a Regional Health Advisor questions what is being applied for. If this happens think about what other supporting documentation can be provided. This could include specialist letters/reports, letters from a district nurse, occupational therapist, psychologist, counsellor or a family member, etc. As an advocate, you can and should be providing support letters summarising what





you know and summarising all other information collected.

Remember: you can use the Review of Decision (ROD) process to challenge a Work and Income decision to exclude DA costs you believe are valid.

It is also possible that children of the person you are supporting will have medical-related costs. As a parent/caregiver they are eligible to receive DA payments in respect of children in their care. This is because the DA is paid for the medical costs of each family member, including children. The maximum DA payment can be made for each family member. In this instance, we are talking about family as being parent(s), caregiver(s) and children.

As of July 2021 The DA maximum payment was \$66.11 per week. Any DA costs over this or any subsequent maximum can be included in an application for Temporary Additional Support (see below).

In the Disability Allowance application form the doctor is asked to say how long the medical condition is expected to last. If the answer is two years or longer - or permanently - then look at the possibility of applying for the Supported Living Payment. (See above)

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### **(iii) Child Disability Allowance**

Child Disability Allowance (CDA): Sections 78-83 of the Act.

It is possible to get both a Disability Allowance and a Child Disability Allowance for the same child.

A parent or caregiver can get a weekly CDA payment if a child in their care has a serious mental or physical disability, which will last for more than twelve months. As an advocate, you will need to work with the person you are supporting to provide medical evidence of a serious medical condition. Ideally, this will be more than a GP letter. Examples of this

include hospital discharge summaries and letters from a medical specialist.

The child must need 'constant care and attention'. This is defined in Section 79 of the Act as:

- a) 'Frequent attention with bodily functions' or
- b) 'Substantially more attention and supervision than is normally required by a child of the same age and sex' or
- c) 'Regular supervision in order to avoid substantial danger' to the child or others.

Examples of constant care and attention include having a child that cannot feed or toilet themselves or having a child with autism who, if distressed, might run out onto the road. The above definition of 'constant care and attention' is a matter of opinion, so don't be afraid to challenge decisions that you think are unfair. You need to talk with the person you are supporting about what they would like to do, and consider submitting a Review of Decision as an option.

It is almost certain that Work and Income will question whether or not the child meets the criteria for CDA. Try to get as much supporting documentation as possible with letters from nurses, occupational therapists, school teachers, family members etc. As an advocate you should write a letter summarising all the information you have.

Even if you don't think you have enough support letters you should still do everything you can to help the person you are working with to make the application.

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### **(iv) Temporary Additional Support**

**Temporary Additional Support (TAS):  
Sections 95-98 of the Act.**

Temporary Additional Support is not a temporary payment. It is reviewed every

three months and if the circumstances of the person you are supporting have not changed then TAS payments should continue.

To work out how much TAS someone is eligible for is very complex. The basics are around your costs exceeding your income. The TAS regulations set out 'allowable costs' which include housing costs, disability costs and a list of 'essential household items'. These household items are:

- beds (including mattresses)
- fridge/freezer
- dining suite
- lounge suite
- portable heaters
- washing machine
- stove
- television

No other household items can be included as an allowable cost.

Work and Income will include car repayment costs when working out TAS eligibility.

Usually people you are supporting will have incurred debts buying these things while working. Work and Income will not include debts incurred whilst the person you are supporting is on a benefit. Advance payments (which we'll detail below) can be used to buy all the essential household items listed above, plus many other essential things not on the above list.

The most common reason for getting a TAS payment is high weekly housing rent costs. The rent situation is obviously ongoing and is not temporary. You can get TAS in addition to Accommodation Supplement.

It is also important to remember that all disability and health-related costs over and above the Disability Allowance maximum should be included in the application form for TAS.

As an advocate, you should make sure that everyone you support has eligibility for TAS

assessed by Work and Income. People in both paid work and on benefits are potentially eligible. Again, **Check what you might get** is a useful place where you can begin to work out if someone is eligible for TAS.

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#### (v) Arrears Payments

With any ongoing payment, there is the possibility that the person was eligible for that payment from an earlier date. Work and Income must tell a person about their right to apply for a benefit payment when they are first told of the circumstances which might mean the person is eligible for that payment.

**Here are two examples of when arrears payments are applicable:**

##### **Example 1**

A grandmother goes to Work and Income in April 2019 and asks for a new bed because her grandchild has started living with her. At that point, a Work and Income case manager should have told her about the Unsupported Child Benefit. In April 2021 the grandmother goes back to Work and Income with an advocate and gets an Unsupported Child Benefit arrears payment going back to April 2019. This would mean she gets a payment of over \$20,000.

##### **Example 2**

A family on a low wage asks for a food grant in May 2020. Work and Income gives them the food grant but the case manager does not ask them about how much rent they are paying. In May 2020 the family was eligible for an Accommodation Supplement of \$200 per week. In May 2021 the family goes back to Work and Income and receives an Accommodation Supplement arrears payment of \$10,000.

We hope this gives you a general idea. The responsibility sits with Work and Income to make sure people are getting their Full and Correct Entitlement (FACE). People don't have to apply for a specific benefit – they don't know what they don't know.

This means that you should always ask the person whom you are supporting questions about how long eligibility for a benefit existed in their particular circumstances. Then ask Work and Income why that benefit hasn't been paid from the time Work and Income were first told the circumstances which could lead to eligibility for that particular payment.

Remember to use ***Check what you might get*** to find out about all possible benefit entitlements for the person you are supporting.

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#### (vi) Advance Payments

**Advance Payments: Section 347 of the Act and the Ministerial Directive on Advance Payments of Instalments of Benefits. – for people getting paid a main benefit** (Note: *This used to be called Advance Payment of Benefits*).

<https://www.workandincome.govt.nz/map/legislation/ministerial-directions/advance-payment-of-benefits-direction/advance-payment-of-benefits.html>

**Recoverable Assistance Programme – for non-beneficiaries.**

<https://www.workandincome.govt.nz/map/legislation/welfare-programmes/recoverable-assistance-programme/clause-2-objectives-of-programme.html>

People on benefits or low wages have the same right as everyone else to live in dignity and to access Advance Payments as an expression of that right.

A significant amount of benefit advocacy work is around supporting people to access advance payments. An Advance Payment is a no-interest debt to Work and Income.

We will look at the Ministerial Directive on Advance Payment of Instalments of Benefit in some detail, as well as the Recoverable Assistance Programme.

The Recoverable Assistance Programme essentially provides the same entitlements for people who are not receiving weekly benefit payments – people in low-paid full-time work.

We want to emphasise how to use discretion to push Work and Income to meet the needs of the people you are supporting using the Act and the Ministerial Directive. The same discretion is in the Recoverable Assistance Programme at clause 9.4(c).

The Ministerial Directive on Advance Payment of Benefits talks about 'particular immediate need' which is a need for 'an essential item or service'. There are a huge number of things that are essential. Examples of essential household items include; beds, table/chairs, lounge suites, washing machine, fridge, TV, computer, lawnmower, vacuum cleaner. Basically, all the essential things you have in your own home should be in the house of the people you are supporting.

In addition, there are a huge number of other things which are essential including rent/bond and other costs that relate to moving into a house; power and phone bill arrears; car repairs; travel to a tangi/funeral; a school trip; petrol for house-hunting etc.

Work and Income staff will frequently say they can't approve an Advance Payment because the person you are supporting has exceeded their limit. When they say this they are referring to Clause 4.2 of the Directive which says that the total amount of Advance payments cannot be more than 6x a person's weekly benefit payment.

For example, if a person has a weekly benefit of \$400 then Work and Income are likely to say the total of Advance payments cannot exceed \$2400. In a moment we'll explain how

this can be challenged through the use of discretion.

Work and Income staff will also say that they can't approve an Advance Payment because the person you are supporting cannot afford to repay the debt to Work and Income. Here they are talking about Clause 5 of the Directive which says an Advance must be repaid within two years. Again, this can be challenged by the use of discretion.

**Clause 6 of the Ministerial Directive deals with how Work and Income staff can ignore the limit on how much Advance debt any person has and can recover an Advance at a lower rate beyond the two year repayment limit. This is the use of discretion.**

Clause 6.3(c) sets out what things Work and Income have to consider when using their discretion. These are:

'the extent to which not making an Advance, or an Advance in excess of the limit, or requiring recovery at the rate set out in clause 5, would:

- (i) Worsen the beneficiary's position; or
- (ii) Increase or create any risk to the life or welfare of the Beneficiary or the Beneficiary's Spouse or partner or any Dependent Child; or
- (iii) Cause serious hardship to the Beneficiary, or the Beneficiary's Spouse or partner or any Dependent Child.'

This discretion is the same for the Recoverable Assistance Programme and for the Special Needs Grant (SNG) Programme and we'll discuss the SNG programme below.

So discretion is thinking about what the bad consequences are of saying 'no'. The advocate needs to be able to explain what the negative consequences will be and, if necessary, list these in writing. Discretion is not about how many times someone has asked for help. It is not about how much money someone owes Work and Income. Discretion is only about the three things listed above.

Anytime Work and Income say 'no' to an Advance application they will be doing one, and possibly up to all, of the things above. A decision to not pay for a removal truck to transport a person's belongings to a new house will mean that person and their family will be homeless. A decision to not pay for a child's school trip will mean that they will miss out on learning and be exposed to probable teasing by other children. As an advocate, you will be able to argue why Work and Income should be saying 'yes', given the consequences of their saying 'no'.

In addition, Advance repayments can be reduced to an amount that will not cause 'serious hardship'. We have seen people paying up to \$100/week to Work and Income for Advance repayments. In practice, this can be reduced to a total of \$5.00 per week by using the discretion in Clause 6.3(c) above.

There is nothing in the Act, Ministerial Directive or Recoverable Assistance Programme that specifies a minimum weekly repayment. Someone may have lots of separate Advances that are being repaid. Work and Income can reduce each repayment down to 50 cents or just suspend a repayment altogether. The important thing to consider is what the total weekly repayment to Work and Income comes to. The repayment should not cause ongoing serious financial hardship.

**Remember 'no' is the wrong answer. A 'no' from Work and Income means you then use the Review of Decision.**

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#### (vii) Special Needs Grants

**Special Needs Grants (SNG): see Special Needs Grants Programme.**

<https://www.workandincome.govt.nz/map/legislation/welfare-programmes/special-needs-grants-programme/special-needs-grants-programme.html>

The major difference between an advance and a grant is that generally you don't have to pay a grant back to Work and Income. To be

eligible for a grant there must be an 'essential and immediate need'.

We will look at food grants in some detail and also briefly look at the emergency dental treatment grant. We will also look at Clause 14 of the SNG which raises the possibility of getting a grant for any 'item or service'.

As you become familiar with the SNG you will see that each type of grant has its own criteria. For example, a person can only get the emergency dental treatment grant once every 52 weeks for each member of their immediate family, and there is no limit to the number of times a person can access grants for emergency medical treatment.

The most common grant is a food grant. You can buy groceries with a food grant including cleaning products, toiletries, nappies, tampons etc – everything except alcohol and cigarettes.

Clause 11.2 of the SNG Programme deals with food. There are specified limits to what you can get within a 26 week (six month) period. These are:

- \$200 for a single person with no children.
- \$300 for a couple with no children.
- \$450 for a couple or single person with one or two children.
- \$550 for a couple or single person with three or more children.

These limits can be exceeded if there are 'exceptional circumstances. We have supported people to get thousands of dollars in food grants over a 26 week period. An exceptional circumstance can be any unexpected expense(s) or a loss of income. If the person you are supporting has no money for food and groceries (see above) then you need to talk with them about what has happened so both you and the person are clear on what the exceptional circumstance is. Remember: there only needs to be an exceptional circumstance after the above limits have been reached.

After talking with the person you are supporting about applying for a food grant you both need to be clear about how much money is needed. The amount of any food grant should be enough to meet the need of that person and their family. The amount of any previous food grants is only relevant in regards to the 26-week limit as stated above and the possible need to show that exceptional circumstances exist.

You might need to get past the shyness/whakamā of the person you are supporting who might initially understate what they need. So getting \$300 or \$400 or more in one food grant payment is possible based on what the person and their family actually need.

Work and Income will ask silly questions like, 'How much do you usually spend on food?' The answer to that question will reflect the ongoing poverty of the person. What the person or family spend on food/groceries will be what is left over after other bills are paid. Questions like 'how much do you usually spend?' are not an assessment of need.

As an advocate, you should try to get clarity as to where the person's last pay has been spent in regard to expenses like rent, power, phone, petrol, clothing etc. If the person has exceeded their 26-week food grant limit then ask about any unexpected expenses or an event that has given rise to the need for a food grant. The unexpected expense or event is the exceptional circumstance. In our experience, it becomes easy to show where the money has gone and why there is a need for a realistic food grant.

In the current Covid-19 situation you, as the advocate, won't be present when Work and Income phones the person you are supporting. You should email the office manager(s) detailing why a food grant is needed; what expenses have been paid; how little (or none) is left for food; and how much food grant is needed. And remember to include non-food but essential items in the

amount of food grant applied for. We suggest that you discuss the lower limit of an acceptable food grant with the person. If Work and Income approves an amount at the low end and it is less than what is needed, check in with the person about getting their approval to lodge a Review of Decision immediately.

The SNG Programme sets out other specific things for which people can get a grant including \$300 for emergency dental treatment. Unlike food grants, grants for dental treatment can only be made once every 52 weeks, even if the cost of the dental grant is under the \$300 limit.

An emergency dental treatment grant can be made for each immediate family member.

Most dental treatment will cost more than \$300 and the extra cost can be covered by an Advance. Before agreeing to this, you should talk with the person you are supporting about the possibility of applying for an additional grant using Clause 14 of the SNG programme.

Clause 14 of the SNG Programme allows Work and Income to pay a 'recoverable or non-recoverable Grant towards the cost of any item or service if the chief executive considers that without that item or service, the Applicant, or the Applicant's spouse or partner or a dependent child would suffer serious hardship.'

This means that it is possible to apply for a grant for anything not mentioned anywhere else in the SNG Programme. It will take determined advocacy to get Work and Income to say 'yes' to anything using this clause but in some well-argued and backed up circumstances it can be done.

The criteria here are meant to cover situations where there is an immediate need not catered for elsewhere in the SNG Programme. The general criteria to receive a grant under Clause 14 is that there are 'special circumstances. The grant cannot

exceed \$500 but more than \$500 can be given in 'exceptional circumstances'. What all this means in practice is unclear, but this is what the criteria are. As advocates, we need to be prepared to look to Clause 14 when necessary and challenge Work and Income's definitions of special and exceptional circumstances.

If Work and Income ultimately do not agree that a grant under Clause 14 should be made the person can accept an Advance Payment to meet the need. A Review of Decision should then be lodged on the grounds that a non-recoverable grant should have been paid instead of an advance which is required to be repaid.

The same discretion exists for grants as for Advance Payments – see Clause 12.2(c) of the SNG Programme. So, just as for Advance payments, you should emphasise what the adverse consequences of saying 'no' are. Always make use of the Review of Decision if Work and Income does say 'no', making sure you have the consent of the person whom you're supporting to do this.

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#### (viii) **Funeral Grants**

##### **Funeral Grants: Sections 90-94 of the Act.**

It is always a difficult and sensitive time when someone passes away. The spouse, partner or child of the deceased person at the time of writing is eligible for a Grant of up to \$2128.10 to cover funeral costs. The person applying for the funeral grant cannot have cash assets worth more than \$1855.15 and the deceased person's estate cannot have money to pay for the costs of the funeral.

Depending on the situation, the criteria for funeral grants can be complex. The best approach is to always make an application. If the application is successful, that's great. If the application is declined, make sure that Work and Income provides clear reasons for saying 'no', including stating the sections of the Act they have used to make their decision. This will then allow you, as the advocate, to

examine whether the Work and Income decision is correct or not under the Act. You can then formulate arguments as to why you believe the decision may be wrong, and lodge a Review of Decision.

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## 8. Obligations and Sanctions

### (i) Obligations

Obligations: Sections 120-161 of the Act.

There are a large number of obligations set out in the Act. The obligations are based on the belief that people on benefits are 'choosing' to be on a benefit because it is such an easy life and everyone is better off if they are in paid work. This ignores the large number of people in poorly paid work, work with no guaranteed hours and work which does not fit in with childcare or other responsibilities that people have. It also disregards the real issues and needs of all those who are on a benefit as a result of disability, sickness and/or injury but from whom the welfare system still expects 'obligations'. The welfare system also doesn't respect the fact that there is an incredible amount of valuable work done in the home, the marae, the community and elsewhere which is unpaid but which is just as necessary as paid employment for society to function well.

Obligations include preparing for work. This includes sole parents who have children under the age of three. They don't have to get work but, according to the Act (see Section 121) they have 'work-preparation obligations'. It is possible to think of many instances where this will not fit in with a sole parent's obligation to care for their child or children.

It is possible to argue that a particular obligation is unreasonable and that the person you're supporting should not have to

do what Work and Income is telling them to do. Use Section 120(2)(a) which says that work-preparation obligations 'are intended to facilitate the movement into ongoing employment (**as their parenting responsibilities and individual circumstances allow**)" (emphasis added) to argue that the particular obligation Work and Income is trying to impose is unreasonable because the person has to look after children or has something else which is more important for them to do at present than complying with a work obligation.

If Work and Income decides the person you are supporting has failed to comply with their obligations then they can impose a sanction.

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### (ii) Sanctions

**Sanctions: Sections 232 and 252-256 of the Act.**

Benefit sanctions are essentially a punishment for not doing what Work and Income tells you to do. They can reduce benefit payments by 50%, temporarily stop benefit payments and/or permanently cancel benefit payments.

The surprising news is that all Sanctions imposed under the Act have been and continue to be illegal because of Section 252 of the Act. This section is headed, 'MSD must give notice of sanction'. The notice must be in writing and give eight specific pieces of information. To our knowledge Work and Income has never written a letter that complies with Section 252(2) of the Act. As an advocate, if you lodge a Review of Decision against any imposition of a sanction and refer to this Section the sanction should be lifted and arrears paid.

While this has been very effective it does not stop Work and Income from imposing sanctions and it doesn't stop the problems people experience when they find that their benefit payment has been halved or stopped. If as an advocate you know that Work and

Income are wanting to impose an obligation argue that the obligation is unreasonable.

We believe that the rules around sanctions are ridiculously complex, impossible to administer, and unfair. It is our experience that Work and Income's frontline staff do not understand them and that decisions they make are almost always wrong.

It is for these reasons that the approach we encourage advocates to use when challenging decisions regarding sanctions and stand-downs is to simply lodge a Review of Decision and then request from Work and Income the precise reasons why they think a sanction is justified. It is important to also ask Work and Income to provide you with the sections of the Act they believe are relevant.

It is our experience that the process Work and Income are then required to go through to provide this information often makes them see that the decision to impose a sanction was wrong, and they then change it.

If the decision you are challenging involves earlier alleged breaches or obligations, make sure that you ask for details of those decisions too. This can be important because if an earlier sanction was wrongly imposed that can mean a current sanction is also wrong.

Requesting this information can be very useful if Work and Income still try to say their decision is correct. The precise reasons and references to the Act used by Work and Income as a basis for their decision give you, the advocate, the chance to look at the information and formulate arguments to put forward on behalf of the person you are supporting.

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### **(iii) Sanctions on sole parents (former 70A deduction)**

#### **Sanctions on sole-parents who did not name the other parent: Ended April 2020.**

This sanction ended in April 2020. The sanction was in Section 70A of the Social

Security Act 1964 and Section 192 of the Social Security Act 2018. The possibility of getting back the money deducted from benefit payments remains for all women who had this sanction imposed on them.

The vast majority (over 96%) of the sole parents who had this sanction placed on them were women. There were over 12,000 women affected by the sanction, and over 16,000 children. 43% of the women affected were either Māori or Pasifika. \$28 per week was deducted from their benefit for each child whose father was not legally named. This amounts to over \$1400 per year per child. So, for example, a woman who had the sanction wrongly imposed for 10 years for one child could be entitled to receive all this money back. In this example, the amount came to more than \$14,000. These situations are not uncommon. We continue to assist women to get thousands of dollars back from Work and Income.

Despite the recent law change it is important to continue to advocate with and for people who had this sanction placed on them in the past. The grounds for appealing/opposing the imposition of the sanction are that the person:

- Does not know who the father of the child is.
- Was taking 'reasonable steps' to identify the father.
- Incurred a risk of violence if the father was named.
- The child was conceived as a result of incest or rape.
- There was another 'compelling circumstance' for not naming the father, and even if the father could be legally named the chances of getting child support from him are slim.

To begin a conversation with a woman about the possibility of this sanction having been imposed, ask if they were ever on the DPB (Domestic Purposes Benefit) or Sole Parent



Support and if the child's father is named on the birth certificate. As an advocate, you must remember that these initial questions can lead to some very sensitive memories for the woman you are supporting. You don't need to know the details of any abuse she has experienced.

If the woman tells you she has been on the DPB and one or more of her children's birth certificates do not name the father then email Work and Income to get confirmation the sanction was imposed. Then argue that the sanction should not have been imposed for one of the reasons mentioned above and apply for full repayment of all money deducted.

It was previously necessary to get a letter from a lawyer stating why this sanction should not have been imposed. It is our recent experience that Work and Income are not wanting a lawyer's letter. Lawyers working at community law centres did write these letters but now Work and Income will accept a statement from the woman outlining the circumstances that show that at least one of the exemptions apply to her situation.

Work and Income will also usually have sent women who have had this sanction imposed a number of computer-generated letters using jargon that is not easy to understand. The jargon will not have been explained and includes phrases like:

- Reasonable steps
- Proof of parentage
- Written legal opinion
- Legally name
- Seek paternity
- Paying parent
- Paternity test
- Legal Aid

Usually the woman will have had several meetings with a case manager who will also have used this jargon and not explained what these terms mean.

In a judgement from the High Court, Auckland, *Ankers v Attorney-General* states: 'In my view, the case for the contention of a breach of the rules of natural justice can be put more simply. Administrative fairness in the case of an applicant for a benefit such as a special benefit must, in my view, include an opportunity to place before the decision-maker information relevant to his decision. *An applicant cannot be said to have been given a fair opportunity to do this unless he or she is also given a fair opportunity to comprehend the conditions upon which such benefits are granted, and at least the principal criteria bearing on eligibility.*' (Emphasis added).

Unless Work and Income has explained what the jargon means they will have breached the rules of natural justice. The women who have never been given the information that would have allowed them to understand what they needed to do to have the sanction stopped.

Using the above High Court judgement alongside the failure of Work and Income to explain the jargon to women means that all women have the chance to get the sanction money repaid to them. Recently Work and Income paid a woman over \$26,000 because they failed to explain this jargon to her.

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## 9. Key points: Effective benefit advocacy

Crucial elements of an effective strategy for supporting people in their dealings with Work and Income include:

- 'No' is the wrong answer – challenge the Work and Income decision-makers.
- Work in solidarity with the people you are supporting. Ensure they are fully informed at every step of the way; are involved in decision making; and are in support of the steps you are taking.
- Be respectful, sensitive and gentle in getting information from those with whom you work.
- Make sure they are getting everything they are entitled to. Look at their situation overall.
- Use the Review of Decision process to challenge 'no' from Work and Income.
- As an advocate you are challenging the inherent injustice within the law, government policy and Work and Income practice.
- Advocacy is easier to carry out and can be more effective if you are part of an organisation rather than doing it on your own. If there is no advocacy group in your area, consider working with others to set one up. Contact the writers of this handbook if you would like more information.

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# Part C: Housing

– Housing advocacy with MSD



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## 10. Housing advocacy with MSD

Housing is a basic and essential human right. This is made clear in Article 25 of the Universal Declaration of Human Rights to which New Zealand is a signatory. Housing advocacy should be based on a rights-based approach.

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### (i) The housing crisis

Supporting people experiencing poverty inevitably means you will be supporting people experiencing a range of housing issues. These problems include:

- Homelessness: sleeping rough, sleeping in a car, couch-surfing, living in a camping ground, living in a garage etc.
- Living in an overcrowded house - this is also a type of homelessness.
- Unaffordable rent.
- Cold, damp, mouldy housing – which often causes health problems.
- Landlords who don't do essential maintenance work.
- Being stuck in Emergency or Transitional housing.

In September 2021 there were 24,546 applicants on the Housing Register, an increase of 14.6% from the same time the previous year. While high, this vastly undercounted the individuals and families in desperate housing need in urban, provincial and rural areas. There are many issues that have combined to create the current housing crisis. Central to these is the economic imperative that for those who are wealthy enough the housing market is a great way to get rich through property investment. National and Labour governments have also contributed to the crisis in a major way by failing to build or acquire anywhere near enough state houses, in some cases going so far as to sell them off. Meanwhile, Aotearoa

NZ's population continued to increase and housing supply never kept up.

Today's housing market excludes people who don't have the income or savings to buy a house. Landlords and property investors exploit people who end up having to pay rents that are so high they are often unaffordable. It continues to be difficult to build housing on Māori owned and papakainga land, despite desperate need in rural Māori communities. Many people on low incomes, whether in paid work or in the benefit system, are locked out of access to safe, secure and affordable housing of any sort.

Housing advocacy is different from benefit advocacy. You are unlikely to be able to support whānau to immediately move into affordable, good quality housing. With benefit advocacy there is a good chance you will support whānau to get benefit entitlements if not immediately, then within a few days. With housing, it is not quite so straightforward. Because this handbook is focused on advocacy with MSD rather than covering the whole of the housing sector we will focus only on the area of housing provision covered by Work and Income.

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### (ii) What is 'social housing'?

Social housing is linked to the payment of Income Related Rent (IRR). This is a rent that is subsidised by the government to a maximum of 25% of a tenant's income, meaning that for people living in social housing rent is almost always far more affordable than anything else in the private market. We used to call this 'state housing' but now state-owned housing operated through Kāinga Ora (Housing NZ) and through some community and iwi housing organisations is called 'social housing' and their tenants receive IRR.

When whānau come to Work and Income for help with housing there is usually no social housing immediately available. Instead Work

and Income moves them into Emergency Housing (most often a motel) and then on to Transitional Housing (most often run by community organisations) before they are shifted into permanent social housing operated by either Kāinga Ora/Housing NZ or an iwi or community-based organisation.

This whole process begins with a housing needs assessment.

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### (iii) Housing needs assessments and criteria

The Ministry of Social Development (MSD) has responsibility for assessing the needs of whānau for social housing. As noted above, when living in social housing you are paying an Income Related Rent which is 25% of your gross (before tax) weekly income as rent.

You begin the housing needs assessment process by contacting Work and Income. A phone assessment will be booked. At the start it is good to get together as many supporting documents as you can. These can include:

- Letters confirming medical conditions from medical professionals (GPs, specialists, nurses, physiotherapists etc). The letters should clearly link the medical condition to a housing need.
- Hospital discharge summaries.
- Letters from schools.
- Proof of a bad credit rating.
- Proof of having moved from lots of houses.
- Police reports.

It is useful to be clear about the social housing assessment criteria. These are:

#### **Adequacy**

- Where the people you are supporting are currently living
- How long they can stay in their current housing
- Overcrowding
- The conditions of the property – is it cold, damp, mouldy?

#### **Suitability**

- Any medical issues (any medical letters should link the medical issues to housing need)
- Violence in the home or in the neighbourhood
- Tension in the home (eg are there arguments because of overcrowding?)
- Safety (eg is the house safe for children? Are there risks for people with disabilities?)
- Is there a need for housing modifications to meet the needs of someone with a disability? (eg ramp, wet-area shower, fencing of the property)
- Cultural issues (does the current housing meet whānau's cultural needs?)

#### **Accessibility**

- What money is available for a bond payment?
- Credit rating
- Will whānau face discrimination from private landlords – has this happened in the past?
- Is there private rental housing available where they need to live?

#### **Sustainability**

- Financial - will there be enough money to pay for everything after the rent is paid? Providing a full budget is useful.
- Social functioning (e.g drug abuse issues, gambling problems)
- Transience – how many moves have there been in the past two years?

#### **Affordability**

This is assessed by MSD using a pre-determined computerised formula based on income.

MSD gives a score of up to 4 for each of the above five criteria and also an 'A' or 'B' rating. The highest possible rating is A20. Given the large number of whānau on the waiting list a rating of at least A15 is needed to have any

realistic chance of accessing social housing in Auckland. This may be different in other parts of the country.

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#### **(iv) Role of the housing advocate**

The role of a housing advocate in supporting whānau to get into social housing is vital. The whānau need to know the rules of how to access social housing. You can help by telling them about the social housing criteria and emphasising the need for documentation proving how bad their situation is. For example, if they have a child who is seeing the GP regularly for chest infections then getting a signed off list of all of the times the doctor has seen the child is needed.

It is important that the GP explicitly links the medical problem(s) to the whānau's housing need.

Once all support letters and other documentation are gathered you should write a letter summarising what you have, as well as submitting the documents. Selecting quotes from the letters or documents can be very powerful and focus attention on the most important issues.

To get a priority rating that gives a realistic chance of accessing social housing means that, as an advocate, you have to support whānau to show that their circumstances are as bad as possible. This means that people will have to talk about and document some really personal, sensitive stuff. Downplaying personal circumstances will lessen the chances of getting into social housing.

Essentially, whānau have to be able to show exactly how bad their situation is. This system means that each individual whānau is competing with all the others to get to the top of the waiting list.

You should also talk about the number of areas/suburbs a whānau may want to live in. The more areas/suburbs they will consider, the greater chance they will have of getting a

house. But the whānau need to think carefully about this because ending up somewhere where they know nobody and are far from their support systems and community can create further problems.

Whānau need to know about the huge number of other households on the waiting list. This should be put into the context of the failure of repeated governments over decades who have left it to the market to sort out housing issues.

Successive governments have ignored Tiriti obligations to work with and resource hapū, iwi and urban Māori solutions to housing need. This is a crucial consideration in thinking about the future of housing in this country. As a housing advocate you and any agency you work for need to think about how to bring about change, talk to others and begin to take considered actions for change. We raise this here because we do not think that a for-profit, free market is the solution to the housing needs of the whānau we work with. We don't think it is OK for a for-profit motel to be paid around \$3000 per week to provide a motel room for a whānau to live in. The solutions lie within our communities and our ability to create the political will for change. We encourage you to go back to the first section of this Handbook where we discuss options for advocacy for social change.

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#### **(v) Emergency Housing**

Emergency Housing is accessed through Work and Income. They will ask for some proof that a whānau is homeless. For example, if a whānau has been sleeping in a friend's lounge Work and Income will want to see a letter signed by the friend stating a specific date the whānau have to move out. If they have been sleeping in their car, Work and Income will want to know about where they were living before this, and why they began to live in the car. A letter from you as their advocate summarising the situation will be useful and

help to avoid whānau having to provide lots of personal information to Work and Income staff.

Before going to a Work and Income office you should discuss with the whānau the pros and cons of moving into Emergency Housing. The Emergency Housing will be a motel room that is only booked for seven days at a time. At the end of the seven days, Work and Income will want proof that the whānau have been looking for a private rental. They will want to see a list of landlords or real estate agents that have been contacted and any viewings that the whānau has gone to. The motel room is unlikely to have adequate cooking facilities – maybe a microwave and/or a hot plate. The fridge will be too small to store a week's food. There is no guarantee about how long whānau can stay in the motel – they might have to move several times. The motel might be across town, far away from relatives, friends and the kids' school. And there is no guarantee of how long the whānau will be living in Emergency Housing. They could be there for months.

The quality of Emergency Housing varies. Some of it is of poor quality and staff will not have been to see the place. We strongly suggest you go with the whānau to check it out before the whānau moves in.

After the first seven days in Emergency Housing the whānau will have to pay 25% of their gross (before tax income) to continue to stay there. This is what most people pay for a Kāinga Ora (Housing NZ) house under the Income Related Rents scheme. Whilst living in Emergency Housing whānau have no protection under the Residential Tenancies Act. The motel manager can tell them to leave at any time.

Emergency Housing can get whānau out of a bad situation immediately and begin the potentially very long process of getting into permanent housing. As the advocate, it is vital that you confirm that the whānau you are supporting into Emergency Housing are on

the social housing waiting list – the Housing Register.

Single people with no children will find it very difficult to access Emergency Housing. They will usually be told by Work and Income to move into a Boarding House. It has been possible to argue that a single person should be in Emergency Housing for health or disability reasons. This will mean providing medical evidence.

As with all other applications for support from Work and Income any decision to decline access to Emergency Housing can be challenged by lodging a Review of Decision. For more information on this, refer to the ROD section earlier on in this handbook.

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#### **(vi) Transitional Housing**

Whānau will usually move from Emergency Housing into Transitional Housing. As the name suggests this is supposed to be a step towards permanent housing. Whānau will usually be told that they will stay in Transitional Housing for up to three months. Frequently the three months will turn into six months and even much longer.

Whānau will pay 25% of their gross income for staying in Transitional Housing.

Transitional Housing is run by a large number of community and iwi organisations. They usually employ social workers and other staff to support whānau into permanent housing.

Whānau are advised by Work and Income that they have an appointment to meet someone from a Transitional Housing agency. As an advocate it is useful for you to attend this appointment. There will be rules about the Transitional House, for example about having visitors. If visitors can come to see whānau at the Transitional House there will be restrictions around when they can come and when they have to leave. There are likely to be shared facilities, for example, shared bathrooms and kitchens. There may be

reasons why the form of transitional housing being offered is not suitable for the whānau you are supporting.

As with Emergency Housing the whānau may have to live far away from their supports or their kids' school. As an advocate you may need to ask how these issues will be addressed and - if necessary - support the whānau to decline a Transitional Housing offer.

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**(vii) Pressure to move into a private rental**

Whānau throughout their time in Emergency and Transitional Housing will be pressured to move into private rental housing. There are housing brokers at Work and Income offices who have lists of available private rentals. The housing brokers will not have visited the houses on their list so all they can reliably tell you is the address and how much rent is being charged. They have no way of guaranteeing the quality of any house on their list. They will talk about the support Work and Income will offer to get whānau into private rental housing and off the social housing waiting list. This includes the Moving Assistance payment of up to \$1500 (see <https://www.workandincome.govt.nz/housing/move-house/moving-assistance.html#null>) which is essentially an Advance payment which needs to be paid back to Work and Income and a Bond Grant (see <https://www.workandincome.govt.nz/housing/move-house/bond-and-rent-in-advance/bond-grant.html#null>) that does not have to be repaid.

Even if a private rental house is warm and dry and close to the kids' school etc the major issue every week will be paying the rent. As an advocate, you need to be able to discuss with whānau how they will pay the rent, put food on the table and pay all the other bills and costs every whānau has.

There are no easy solutions for whānau that need permanent, affordable housing. Living for months and months in Emergency or

Transitional Housing is hard. So it is not surprising that a private rental house can look like a quick solution. As an advocate talk through the pros and cons of this with the whānau. Use the Work and Income **Check what you might get** tool to show what the weekly Accommodation Supplement will be and confirm with Work and Income as to whether there is eligibility for Temporary Additional Support. Get a clear idea of what the whānau's ongoing weekly income and weekly costs will be. Try to support the whānau to answer the question – 'In this private rental, can we live long term on what's left after the rent is paid?'



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# Final thoughts

The Ministry of Social Development and Work and Income are the government's frontline of contact with people experiencing all of the hardship that comes with poverty – nowhere near enough money to live on and totally inadequate housing to meet the needs of people, whānau in our communities.

We started this handbook by looking at advocacy for social change and social justice. We have looked at how to do individual advocacy to support people who face the inadequate responses of this government and previous governments to the real needs of our communities. Individual advocacy can support what has become a never-ending need. By explicitly and deliberately linking the individual experiences of poverty to the collective experience of injustice we can unlock the potential for real social change and real social justice. We hope this handbook will be of some use in all the advocacy work you do. Please get in touch if you have queries about content, possible training, or suggestions for improvement in future editions.

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