

Proposed Amendment to
Inland Revenue and Ministry of Social Development's

Approved Information Sharing Agreement Guidance Document

Waiving the notice period for charging
child support as income



MINISTRY OF SOCIAL
DEVELOPMENT
TE MANATŪ WHAKAHIATO ORA



Inland Revenue
Te Tari Taake



Introduction

Child support payments for sole parent beneficiaries receiving a main benefit from the Ministry of Social Development (MSD) are currently retained by the Government to offset the cost of their benefit payments.

For child support payments that relate to periods from 1 July 2023, child support is going to be passed on directly to sole parent beneficiaries¹. This means that MSD clients who receive child support may have their payments from MSD adjusted to account for this additional income.

MSD and Inland Revenue want to make this simple for MSD clients, to minimise client debt and the burden for MSD clients to declare their income. To do this, MSD will charge child support as income for benefit purposes in real time based on regular information provided by Inland Revenue under the Approved Information Sharing Agreement (AISA). The AISA has been in place since 2017 to allow for the sharing of information.

For the purposes of the AISA, MSD are seeking to waive the existing requirement to provide 10 working days' notice (the notice period) for a person to dispute the accuracy of personal information when an adverse action (such as a person's benefit being reduced or stopped) is being taken based on shared information. Removing the requirement will mean MSD could charge the child support payment as income as close as possible to when it is received, which will avoid overpayments of benefits being made and reduce the likelihood of client debt. This waiver will only apply to child support information shared under the AISA.

¹ Child support is already passed on to other beneficiaries, such as repartnered couples caring for children from a previous relationship, who are currently required to manually declare their payments.

Consultation

MSD and Inland Revenue are running public consultation from 20 July to 17 August 2022, to get feedback on the proposed change to amend the AISA in order to waive the notice period.

The consultation does not cover the wider Child Support Pass-on initiative.

This document provides background information and detail on the removal of the notice period, and is intended to help you write a submission and/or complete our online survey.

How to provide feedback

The online survey can be found at:

- consultations.msd.govt.nz/aisa/amendment

Submissions can be made by:

- emailing AISAAmendment_consultations@msd.govt.nz
“Submission on proposed AISA amendment” in the subject line
- post to:
Ministry of Social Development
AISA Amendment
P O Box 1556
Wellington 6140
New Zealand

Submissions may be the subject of a request under the Official Information Act 1982, which will result in their publication unless there are grounds for the submission (in whole or part) to be withheld. The withholding of responses on the grounds of privacy, or for any other reason, will be determined in accordance with that Act. If you consider that any part of your submission should properly be withheld under the Act, please clearly indicate this.

Submissions will be shared with Inland Revenue, the Minister for Social Development and Employment, and Minister of Revenue where the Ministry of Social Development believe it is appropriate, to inform the proposed amendment. Any information the Ministry of Social Development shares with those Ministers’ or agencies will be transferred to them securely.



Background

The AISA amendment to waive the notice period is part of the Budget 2022 initiative to pass on child support payments to sole parent beneficiaries and relates to child support information shared by Inland Revenue with MSD.

Passing on child support

What happens now?

At the moment, child support payments are collected by Inland Revenue on behalf of sole parent beneficiaries and are not paid to the parent or carer, unless the child support payment is in excess of the client's benefit rate. Instead, the Government retains the child support to offset the cost of their benefit payment.

This financially disadvantages sole parent families on the lowest incomes and creates inequities in how sole parent beneficiaries and other beneficiaries are treated².

What will change?

Government has announced that child support payments collected by Inland Revenue (through formula assessments or voluntary arrangements) for periods from 1 July 2023, will be passed on to sole parent beneficiaries. Child support payments will also be charged as income in real time to determine the amount of financial assistance payable under the Social Security Act 2018.

This will:

- improve income adequacy for sole parent families on the lowest incomes;
- fulfil the Welfare Expert Advisory Group's (WEAG) recommendation to pass on child support (recommendation 27³); and
- reduce child poverty.

² Child support is passed on and considered income for other beneficiaries, such as repartnered couples and parents who are only receiving supplementary assistance.

³ The WEAG also recommended passing on child support for Unsupported Child's Benefit recipients which is not included in this policy. This is being considered by Oranga Tamariki—Ministry for Children as part of their work.



Simplifying the process and reducing debt

There are a number of factors that need to be addressed to ensure child support is charged as income in a simple and accurate manner, to minimise the creation of debt and reduce the burden for MSD clients to manually declare their child support payments.

To achieve this:

child support payments will be charged as income for benefit purposes as close as possible to when the client receives their child support payment, and a waiver will be needed of the Privacy Act's requirement to provide a notice period before a proposed adverse action. This waiver will allow MSD to charge child support as income as close as possible to when the client receives their child support payment.

Waiving the notice period is therefore a key requirement to progressing the Budget 2022 initiative to pass on child support to sole parent beneficiaries and charge child support as income in a timely manner.



Information sharing

MSD and Inland Revenue have had an agreement in place since 2017 to allow for the sharing of information. Inland Revenue and MSD share information because they have joint responsibility for the administration of some social policy products (such as Working for Families tax credits). This AISA allows the agencies to share information for the purpose of, amongst other things, assessing eligibility for and entitlement to benefits and subsidies.

The AISA allows the sharing of child support payment information and client matching, and therefore its charging as income for all clients.

The AISA requires the agencies to provide MSD clients with 10 working days' notice to allow MSD clients to dispute the accuracy of personal information when an adverse action (such as a person's benefit being reduced or stopped) is being taken based on this personal information shared under the agreement.

The Child Support Pass-on initiative will see child support charged as income in real time for benefit purposes, using information shared between MSD and Inland Revenue. MSD will match information of child support payments received from Inland Revenue and charge the payment as income against a client's records.

Waiving the notice period

Draft proposed amendment to the AISA

It is proposed the following draft sub-clause be added to the existing Inland Revenue and MSD AISA. The final wording of this as a new sub-clause 6(ca) will be agreed to after public consultation.

The paragraph would be included under clause 6 of the AISA – Adverse Actions.

a. The Parties agree that MSD will dispense with the notice requirement under section 96Q⁴ where the sharing of Personal Information under this Agreement is used to:

i. charge child support payments as income for benefit purposes, that result in a reduction or suspension of benefit.

MSD must, immediately after the decision to reduce or suspend the Specified Payment, take steps that are reasonable in the circumstances to notify the individual:

ii. Provide details of benefit change.

iii. Notify the individual that the Specified Payment has changed.

iv. Advise the individual of their right to review and appeal the Ministry's decision.

b. The Adverse Actions that the Parties may take under this Agreement are specified at Schedule 2.

c. Notwithstanding sub-clauses 6(a)- 6(d)above, the Parties may not take any Adverse Action as a result of the sharing of Information for the purpose set out in sub-clause 2(e) (regarding policy proposals).

⁴ Note that section 96Q of the Privacy Act 1993 has been replaced by section 152 of the Privacy Act 2020

The issue

MSD and Inland Revenue want to make the process of charging child support as income simple for MSD clients to minimise client debt and reduce the burden for MSD clients to declare their income.

To achieve this, MSD and Inland Revenue will share information on child support payments. MSD will charge child support payments as income as close as possible to when the client receives their child support payment, and waive the notice period to do so.

The AISA that governs this information sharing includes the Privacy Act requirement to provide MSD clients with 10 working days' notice of a proposed adverse action, when the action is taken based on information shared through the AISA. Adverse actions could include, for example, reductions in benefit payments as a result of the income from a child support payment.

Retaining the notice period would disadvantage MSD clients by creating debt. This is because the notice period would create a delay in when child support payments can be charged as income. This delay would see child support payments charged as income two weeks after the child support payment is received, instead of being treated as income as close as possible to when the client receives their payment. The resulting abatement of a client's benefit and the receipt of child support would not be aligned. This could create debts for MSD clients.

MSD and Inland Revenue recommend amending the AISA to waive the requirement to provide MSD clients with 10 working days' notice of a proposed adverse action, when the action is taken based on information shared through the AISA. This waiver would only apply to information shared relating to child support payments via Inland Revenue that are charged as income for benefit purposes.

This will ensure that child support payments are charged as income as close as possible to when the client received their child support payment. In order to prevent creating debts for MSD clients, child support received through the information share will be charged forward rather than retrospectively.

This will enable child support to be passed on simply, minimise the creation of client debt, and reduce the burden for MSD clients to declare child support payments from Inland Revenue as income.

The below picture shows the process that will be undertaken to charge child support as income without the notice period, and the second diagram outlines the impact of the notice period for clients.



Child Support being charged as income without the notice period

20 July	21 July	26 July				23 Aug
	Week 0	Week 1	Week 2	Week 3	Week 4	
	No income charge. Sam's income \$585.95 benefit payments + \$200 Child Support =785.95	\$50 of child support is charged as income. Sam's benefits reduce by \$25 and she receives \$560.95	\$50 of child support is charged as income. Sam's benefits reduce by \$25 and she receives \$560.95	\$50 of child support is charged as income. Sam's benefits reduce by \$25 and she receives \$560.95	\$50 of child support is charged as income. Sam's benefits reduce by \$25 and she receives \$560.95	
Alex, the liable parent pays \$200 in Child Support to Inland Revenue and Inland Revenue passes the child support onto Sam	Through the information share Inland Revenue informs MSD about the \$200 payment, and this is matched with Sam's MSD record	Sam's Child Support payment of \$200 is charged against her benefit and supplementary assistance for the next four weeks, ie treated as \$50 of income for each of the next four weeks.				

Child Support being charged as income with the notice period

20 July	21 July	9 Aug			23 Aug
	Week 1	Week 2	Week 3	Week 4	
	No income charge. Sam's income \$585.95 benefit payments + \$200 Child Support =785.95	No income charge. Sam's income \$585.95 benefit payments	\$50 of child support is charged as income. A \$50 debt is established. Sam's benefit reduces by \$25 and she receives \$560.95	\$50 of child support is charged as income. Sam's benefit reduces by \$25 Sam pays \$5 towards her debt to MSD, and she receives \$555.95	
Alex, the liable parent pays \$200 in Child Support to Inland Revenue and Inland Revenue passes the child support onto Sam	Through the information share Inland Revenue informs MSD about the \$200 payment, and this is matched with Sam's MSD record. MSD informs Sam that her benefit will reduce by \$25 per week and Sam has 10 working days to respond.	10 working day notice period		Sam's Child Support payment of \$200 is charged against her benefit and supplementary assistance for the two previous weeks and the next two weeks. Her benefit for the previous two weeks was overpaid and \$50 of debt is established.	

How will MSD ensure they are acting on accurate information?

Removing the notice period will not increase the chances of MSD incorrectly charging child support as income.

The following safeguards will be introduced to mitigate the risk of error from information matching and charging child support as income in real time.

- Prior to the initiative going live, a data cleansing activity¹ will be undertaken to help support higher data matching rates² between MSD and Inland Revenue.
- The information Inland Revenue shares with MSD must match multiple identifiers on a client's MSD record before MSD treats their child support as income. If there is any uncertainty with the match a person will manually review the information.

Querying a change in benefit payment as a result of a child support payment

The following safeguards will be introduced to ensure MSD clients have an opportunity to question a benefit change that is a result of charging child support as income:

- MSD will notify any client whose benefit payment changes following their child support payment information from Inland Revenue being matched to their MSD client record.
- The majority of MSD clients will receive this notification before their benefit is paid³.
- MSD and Inland Revenue will introduce a simple process to allow clients to query a change in their benefit payment as a result of a child support payment. This will enable agencies to urgently work together to rectify errors.
- MSD clients will be able to contact MSD through multiple channels to query their benefit payment. If an error has occurred, it will be identified and rectified as soon as reasonably possible. If any benefit payment is owed to the client, it will be paid within the next working day after the error has been resolved.
- MSD clients will have the right to review any decision made about their financial assistance through the usual Review of Decision process⁴.
- If needed, all MSD clients also have access to one off non-recoverable assistance through the MSD Contact Centre or in a Service Centre.

¹ Data cleansing is the activity to correct data if it is not correct, for example due to bad formatting, being outdated, a duplicate or recorded in error.

² A high rate of data matching is when more data is being successfully matched instead of requiring manual reviews by staff to complete the match.

³ Delays in notification could occur due to postal service delays for example in cases where MSD sends postal letters and receives child support information from Inland Revenue on a Thursday.

⁴ <https://www.workandincome.govt.nz/about-work-and-income/complaints/review-of-decisions.html>

Next steps

Following consultation, the findings will be summarised in a report to the Minister for Social Development and Employment and Minister of Revenue to determine the next steps and whether the AISA will be amended.





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