

19 April 2023

A proposed framework for debt to government

Introduction

1. Citizens Advice Bureaux New Zealand | Ngā Pou Whakawhirinaki o Aotearoa (CAB) welcomes the opportunity to contribute to the departmental consultation on the proposed framework for debt to government.
2. CAB is a nationwide, and locally based, community organisation that provides a free, confidential, and independent service of information, advice, and advocacy. We help people know and understand their rights and responsibilities, to take steps to act on these, and to connect with additional community services they may need. Our service is delivered from over 80 locations around Aotearoa by over 2,000 trained CAB volunteers.
3. In the past financial year, amidst the ongoing challenges presented by COVID-19, our CAB volunteers assisted with over 250,000 client interactions across the range of issues that affect people in their daily lives. Each time a person seeks help from our service, we record anonymised details of their enquiry into a national database. This gives us unique information about the issues affecting people in communities nationwide. When we see that policies or laws are not working well for people, we act as a voice for positive social change.
4. For this submission, we have chosen to focus mainly on debt to the Ministry of Social Development (MSD), though some of our observations and recommendations also apply to debt to other government agencies.

Principles for creating and managing debt

The principles of fairness, and of minimising hardship

5. Given that most benefits – even with recent increases – do not meet the basic cost of living¹, by definition, individuals and households dependent on benefits as their main source of income are in hardship. We ask; is it fair for people in hardship who need further financial assistance for covering necessities e.g. bond, power, white ware etc. to

¹ Fairer Future, [‘What are Liveable Incomes in 2022: Discussion Paper and Methodology’](#), 2022.

have to take out loans from MSD for these things? Clearly, this exacerbates people's financial distress. We believe that a principle within our social welfare system should be that assistance for people on benefits and low incomes for covering the costs of necessities should not place recipients into (or further into) debt.

6. We also believe that the principle of hardship should have the goal of helping to prevent - rather than minimise - hardship. This should be a goal of government and of our welfare system, and fundamental to the approach to debt to government for those on income support and low incomes.
7. We therefore recommend the following wording change for the hardship principle:

Preventing hardship -

The creation of a debt in the first instance, as well as the terms of its repayment should not place people into hardship or exacerbate existing hardship. Agencies should administer financial assistance and debt in a way that is appropriate for the individual's circumstances as a whole. This means not seeking to recover grants for necessities which cannot be afforded out of the recipient's income, and considering whether taking on further debt for other costs will have a negative impact on that person or their dependants.

The principle of behavioural responses

8. The context for this framework is that people on income support and low incomes are struggling because their income does not cover all basic expenses and so often their only option is to incur debt to allow them to cover these needs. Or people may find themselves in debt from overpayments due to the complexity of the system and their difficulty in understanding and navigating it, poor communication by the government agency on individuals' obligations, time delays in processing client information, and administrative errors. In our experience, the vast majority of people are not incurring debt to government "because they expect not to have to repay it" but because they had no choice of avoiding the debt. While we agree that the system should not lead people towards taking on unsustainable debt or running up debt inappropriately, our view is that applying the aim to "incentivise positive behaviours" within this principle is not necessary or appropriate for most debtors.
9. The key issue we see through our work with clients is not a need for incentivising certain financial behaviours of individuals and whānau, but rather addressing the government policy and practice which leads low income people into debt and financial distress in the first place - in particular, in relation to insufficient income support levels, the use of recoverable support (loans) - as opposed to non-recoverable grants - for necessary expenses that cannot be covered by existing income, and unfairly placing the costs of

system issues (such as those described above) onto individuals and whānau - who are least equipped to shoulder that burden.

10. To avoid the potential risks alluded to under this principle in terms of people running up debt inappropriately, we believe that the hardship principle in fact already addresses this in relation to the provision of financial assistance e.g. in requiring that the administration of debt is done “in a way that is appropriate for the individual’s circumstances as a whole, including whether taking on further debt will have a negative impact on that person or their dependants.”
11. Therefore, we ask that income support is not highlighted in this principle, the example of write-offs or policies relating to recoverable versus non-recoverable support is removed, and the principle is balanced by including the need to consider wellbeing.

Purpose-centred approach

The types of debt owed to government

Intentional non-compliance -

12. While we understand that intentional non-compliance can occur, we also know that the proportion of debt to government which is incurred in an intentionally dishonest way is extremely low. We are concerned that there is an outsized focus on this issue in New Zealand politics (and therefore in the media and public discourse) - a focus we believe to be driven by political expediency and which plays into ignorance and prejudice. These attitudes should not be allowed to drive government policy, especially within this context where the majority of those affected are people living in hardship.
13. With regards to “non-compliance” what we most commonly see within our service is overpayments that have occurred when overly complex and poorly explained government processes and systems interact with changing circumstances eg changes in employment, accommodation, and child support, leading to the creation of hidden debts that are then clawed back much later. In our view, this is a key area where progress could be made by government ie through clearer and more coordinated cross-government processes and systems that avoid overpayments of benefits and tax. We see that there is far more to be gained by focusing on these matters than there is by focusing on individual behaviour for the purposes of addressing intentional non-compliance. We would therefore counsel that caution should be applied to implementation of the debt framework, to ensure that it does not reflect an outsized focus on intentional non-compliance.

Recommended arrangements for creating and managing debt

Other policy factors to consider -

Creation of debt

14. It is our view that additional financial assistance for people in hardship - those on income support and on low incomes that do not meet basic expenses - not take the form of recoverable grants (loans). The current system of recoverable grants for such expenditure is placing people who are already in hardship deeper into poverty and a cycle of debt from which it is difficult to escape. If there is no change to the approach to grants within the welfare system, (or to ensuring sufficient levels of income support in the first place), this will limit the effectiveness of other measures within this proposed framework as means for providing relief for people and helping them to move forward in life.
15. We therefore recommend as an addition to the policy factors listed in the proposed framework the inclusion of:

Creation of debt -

What government financial assistance should take the form of recoverable versus non-recoverable grants? Is it appropriate for government to claw back grants for necessary expenditure from people on incomes that do not cover all basic costs?

Communication to individuals and whānau

16. We see the impacts on families of the debt incurred from over payments for Income Support and Working for Families. Typically, the clients we see who have been overpaid did not realise this was happening nor do they understand why it has happened, and the notification comes as a shock. Most of these families are only just getting by and an unforeseen debt like this – which for many of these clients runs into the multiple thousands of dollars – brings with it the prospect of ongoing financial stress.
17. For example, we see clients on Working for Families Tax Credits who thought that Inland Revenue automatically knows when they have a change in income because they are paying tax on their income and IR has all of their wage and salary information. They have therefore not understood IR must be notified of a change in their family income. This means some families are overpaid for substantial periods of time, resulting in large debts when the overpayments are finally discovered.
18. Our experience with clients suggests that information about obligations to inform agencies when circumstances change is not always getting through and that (i) more could be done to ensure people are aware of and understand their obligations, including through multiple channels that include person-to-person and face-to-face

communication, and (ii) treatment of debt must include consideration of whether obligations have been communicated effectively. We note that para 4.20 in the proposed framework alludes to the communication problems that exist within current systems.

19. We therefore recommend as an addition to the policy factors listed in the proposed framework the inclusion of:

Communication -

How well are agencies communicating with individuals and whānau about their obligations to notify agencies of changes in their circumstances which may impact their entitlements? Are agencies taking a proactive, multi-channel, plain language approach to communication to ensure people are aware of and understand their obligations?

Recommended treatments

Recommended treatments for overpayments of government support -

20. We agree that a lower threshold for write-offs is appropriate, especially where repayments will undermine income adequacy. We agree that write-off should be the default response if over-payment is due to administrative error - but would add it should also be the default response if (i) recipients' obligations were not communicated sufficiently to ensure their awareness and understanding of their obligations ie not communicated proactively and directly to the recipient, in a timely way, via multiple channels using plain language, or (ii) the individual receives income support or is on a low income that does not cover basic expenses.
21. For overpayments that are not written off, we agree that interest should not be charged, ability to pay is the key consideration for the timespan of the repayment, and penalties should not generally be applied.

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

22. We refer to points made previously in this paper regarding the appropriateness of providing additional financial assistance as recoverable grants (loans) for people on income support or on low incomes that do not cover basic expenses. These are people who are in hardship. It is our view that it is not ethical for additional financial assistance that is compensating for lack of adequate main income to be made in the form of recoverable grants (loans).
23. For other additional financial assistance, we agree that charging interest is inappropriate

for lower income households, and we believe that timespan for repayment should be extended or deferred if to do otherwise would cause or exacerbate hardship, that write-offs are appropriate in cases of hardship, and we agree that where hardship exists it may be appropriate to write off penalties.

Person-centred approach

Assessing hardship

24. In terms of establishing methods for assessing financial circumstances and ability to meet repayments, the work of the Fairer Future collaboration will be of use here.² In 2022, Fairer Future released its analysis of income support rates against the cost of living, using the [Beneficiary Household Living Cost Price Index](#). The data showed that, even after increases to income support in April 2022, 12 of the 13 households modelled would receive less income than they needed to cover their basic costs.³ If even low repayments of debt are factored in, none of the 13 households would be able to meet their costs.⁴ For some households, the average weekly deficit was in excess of \$300.⁵
25. We expect that with the inflationary and cost of living increases that have occurred since that time - even factoring in the further increases that have been made to state financial assistance over the period - the deficits are likely to be greater (and to continue to grow). The data suggests to us that it should be taken as read that if a household's main source of income is income support, the household is in hardship.

Other measures

Wiping debt to the Ministry of Social Development

26. The questions this consultation addresses highlight the unfairness and inequities of the welfare system - the way that debt is created and treated within this system by the state, and the impacts on people's lives of the debts people are currently carrying. It is our position that the debt framework should be implemented hand-in-hand with the wiping of debt owed to MSD. This would reduce hardship, provide some justice for the many whose debts have arisen from inadequate support and system failings, and it would maximise the impact this framework can have.
27. Debt to the Ministry of Social Development is a particularly heavy burden for the population, with around 461,000 people - or almost 1 in 10 of the population - owing

² [Fairer Future](#) is a network of community organisations advocating for liveable incomes for all, and CABNZ is a member of the network.

³ Fairer Future, [Liveable incomes in 2022](#), 2022, p.1

⁴ Ibid

⁵ Fairer Future, [Liveable incomes in 2022](#), 2022, p.9

debt to MSD as of 2020, with an average debt per household of over \$3,500 (and these figures are likely to now be higher).⁶ Behind these figures are real people whose lives and futures are being impacted negatively by the debt and who are feeling, as the Fairer Future 2023 report on debt observes, “the shame, the stress, the pain of not being able to provide for loved ones, the feeling of being weighed down.”⁷

28. As pointed to earlier in this paper, much of that debt has been unfairly placed on people, through overpayments that have occurred as a result of unclear communication from the government agency, delays in processing client updates when circumstances have changed, or administrative error, and through recoverable grants (loans) that are made as a result of people’s incomes being insufficient to cover basic costs. However, as the Fairer Future report on debt observes, apportioning responsibility for the creation of debt [particularly in relation to overpayments] is a complex exercise.⁸ As the report recommends, “it would be administratively simpler, and beneficial for all involved, for the government to wipe all debt owed to MSD, acknowledging the hardship faced and enabling a fresh start for those dealing with overpayments or attempting to repay recoverable financial support.”⁹ In terms of how this can be done, we point you to the Fairer Future debt report for further detail.¹⁰

Thank you for the opportunity to respond to the proposed framework for debt to government. Please don’t hesitate to get in touch with any questions you may have in relation to our submission.

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⁶ Cabinet Social Wellbeing Committee, ‘Reducing the Impact of Debt to Government for People in Hardship’, 12 November 2021 (proactively released by DPMC), at Appendix 2.

⁷ Fairer Future collaboration, ‘[Lifting the Weight: A Fairer Future Report on Experiences of Debt Owed to the Ministry of Social Development](#)’, 2023, p.25.

⁸ Ibid, p.27.

⁹ Ibid

¹⁰ Fairer Future collaboration, ‘[Lifting the Weight: A Fairer Future Report on Experiences of Debt Owed to the Ministry of Social Development](#)’, 2023.