Education Report: Exempting disability support payments as income for student allowances purposes

To: Hon Chris Hipkins, Minister of Education

Date: 30 May 2018

Priority: Medium

Security Level: In Confidence

Drafter: Miriam Ulrich

Key Contact: John Brooker

Messaging seen by Communications team: No

Purpose of report

This report asks you to agree that Cabinet approval be sought to amend the Student Allowances Regulations (1998) so that disability support payments paid to students to purchase disability support services would be treated as exempt income for student allowance purposes for study starting on or after 1 January 2019.

Executive Summary

Under the system transformation of disability support services, some clients will have the option of receiving payments in cash to use for their disability support needs.

Currently, when clients receive disability support services there is no impact on student allowances. When the disability support is transformed into a cash payment it could affect their eligibility and entitlement to student allowances because, under settings, it would be counted as income for the parental, personal and couples income test.

The Ministry of Social Development and Inland Revenue are providing advice to Ministers recommending that direct disability payments be treated as exempt income for benefit and income tax purposes. This will mean that direct funded disability clients are no worse off than those who are not direct funded in these systems.

Amendments made to the Income Tax Act (2007) will automatically exempt direct disability support payments from the definition of parental income for student allowances purposes. However, amendments will be needed to Regulation 2 of the Student Allowances Regulations (1998) to exempt these payments as income for the personal and couples income test.

We are seeking your agreement to amend Regulation 2 of the Student Allowances Regulations (1998) so disability support payments paid to students to purchase disability support services are treated as exempt income for student allowance purposes for study starting on or after 1 January 2019. This would ensure that these cash payments are treated consistently across Government.
This proposal has no financial implications because currently when students receive disability services there is no impact for student allowances.

Recommended actions

The Ministry of Education recommends you:

a. agree to seek Cabinet approval to amend the Student Allowances Regulations (1998) so that payments made to students for the purchase of disability support are exempt from being treated as personal/couple income for student allowances purposes, for study starting on or after 1 January 2019
   Agree/Disagree

b. agree to seek Cabinet approval to amend the Student Allowances Regulations (1998) through the Minister for Social Development paper to the Cabinet Social Wellbeing Committee, reporting back on similar amendments in the social security system
   Agree/Disagree

c. forward a copy of this report to the Minister for Social Development and Minister for Disability Issues, and Associate Minister of Health (Hon Julie Anne Genter)
   Agree/Disagree

d. note that the Ministry of Education will also be reporting to you and the Associate Minister of Education, Hon Tracey Martin, in early June on a proposed approach to transferring Vote Education funds to the transformed system

e. agree that this Education Report is proactively released following announcements of Cabinet decisions.
   Release/Not release

[Signatures]

Andy Jackson  
Group Manager  
Tertiary Education

Hon Chris Hipkins  
Minister of Education

[Date]
Background

A transformation of the disability support system is soon to get underway

1. In February 2017, Cabinet agreed to a national transformation of the disability support system [SOC-17-MIN-007 refers]. The overall direction is based on an Enabling Good Lives (EGL) approach which seeks to improve the choices and control disabled people have over their lives and support.

2. The previous Government agreed that the first phase of the transformation will focus on people eligible for Ministry of Health Disability Support Services funding (DSS funding)1 and will be rolled out as a prototype in the Mid Central District Health Board on 1 October 2018. Advice to Cabinet on a nationwide roll out of the transformed disability support system is expected to be provided in late 2020.

3. In April 2018, Cabinet endorsed the EGL approach to disability support services and agreed to implement the prototype. The Minister for Social Development was invited to report back on any changes to legislation to exempt the disability payments as chargeable income or cash assets for benefit, supplementary assistance or social housing purposes [SWC-18-MIN-0029 refers].

Direct payments will be made to disabled people to purchase support services

4. The MidCentral prototype will allow for flexible funding arrangements for disabled people, including DSS funding paid directly to the disabled person, or their agent, to purchase their disability support.

5. The direct payment arrangement will be on an opt-in basis. Payments would be made in advance of the expenses being incurred. The funding would be made directly to a separate bank account set up by the disabled person specifically for disability support. The Ministry of Health is expected to monitor the use of this funding. Around 1,600 disabled people would be eligible for the disability support payments but it is likely that only a small number will opt in initially. It is likely that very few of these would be tertiary students.2

6. The Ministry of Health is also providing similar DSS payments in the Waikato region to around 250 people as part of an EGL demonstration. The Ministry of Health is also restructuring the Carer Support Subsidy so that it is paid directly to around 19,000 eligible recipients ahead of expenses being incurred.

Agencies are working to achieve a consistent approach to direct DSS payments across government

7. Agencies are preparing advice to Ministers seeking agreement to exempt the direct disability support payments as income to ensure that the value of services and supports for direct funded recipients are the same as for those who receive support through the National Disability Support Services. More specifically:

   a. The Ministry of Social Development is proposing to exempt direct DSS payments from being treated as income or assets in the social security system to avoid the potential

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1 Currently 33,000 disabled people in New Zealand are supported by DSS funding. These people have long-term physical, intellectual and/or sensory disabilities that arise before they reach 65 years of age.

2 Currently, the Ministry of Health indicates that about 18% of the DSS group have secondary or tertiary education qualifications (compared to 95% for all New Zealanders).
for assistance given in one part of government to be taken away by another part of government.

b. Inland Revenue is proposing changes to tax law so that the direct DSS payments are treated as exempt income and not subject to income tax. They will propose that the payments do not affect social assistance administered by Inland Revenue (specifically Working for Families Tax Credits and student loans). This would maintain consistency with the treatment of income in the social security system.

Treatment of direct disability payments for student allowances purposes

8. If the Minister of Social Development agrees to amend the benefit income and cash asset test regulations to exempt the direct DSS payments, this will automatically apply to the definition of parental income for student allowances purposes. The Student Allowances Regulations (1998) uses the Family Scheme Income definitions in the Income Tax Act (2007), this definition excludes payments that are excluded by the benefit income and cash asset exemption regulations.

9. We are seeking your agreement to exempt DSS payments paid directly to students from the student allowances personal and couple income definition. This will ensure consistency of treatment across social assistance policies (and with the student allowances parental income test).

10. We are proposing that this exemption would cover other DSS payments beyond the MidCentral prototype that the Ministry of Health is transforming into direct payments as part of the EGL approach (such as the Care Support Subsidy mentioned in paragraph 6). This is consistent with the approach being taken for the treatment of such payments in the social security system and tax system.

11. Exempting direct DSS payments would require these payments to be added to the list of specified exemptions in Regulation 2 of the Student Allowances Regulations (1998). We propose that the effective date of the proposed regulation changes would be for study starting on or after 1 January 2019.

Fiscal and administrative implications

12. The proposal in this paper does not have any fiscal implications. Currently, when students receive disability services there is no impact for student allowances. The proposed regulation amendments will preserve that approach when the support is provided on a cash basis. If you decide not to exempt direct DSS payments as personal/couple income, this would reduce the purchasing power of individuals and slightly reduce student allowances expenditure.

13. There are likely to be small administration costs for the Ministry of Social Development which would be met through existing baselines.

Next steps

14. If you agree to exempt direct disability support funding as personal/couple income for student allowance funding, officials consider that it would be appropriate to include the proposal in the Minister for Social Development's report back to the Cabinet Social Wellbeing Committee on any proposed changes to legislation to exempt personal budgets
as chargeable income or cash assets for the purpose of determining eligibility to benefits, supplementary assistance or social housing.

15. The Cabinet paper would also invite the Minister for Social Development to instruct Parliamentary Counsel to draft amendments to the Student Allowances Regulations (1998) to give effect to the change.

16. The Ministry of Education will also be reporting to you and Associate Minister of Education, Hon Tracey Martin, in early June on a proposed approach to transferring Vote Education funds to the transformed system.

Proactive release

17. It is intended that this Education Report is proactively released as per your expectation that information be released as soon as Cabinet decisions have been announced. Any information which may need to be withheld will be done so in line with the provisions of the Official Information Act 1982.