



13 July 2020

DOIA19/20050418

s 9(2)(a)

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I refer to your request of 30 April 2020 to the Crown Law Office, and transferred to the Ministry of Housing and Urban Development on 14 May 2020. Your request, considered under the Official Information Act 1982 (the Act), asks:

s 9(2)(ba)(i)

- a) *Could Crown counsel please provide a break-down of what sounds like the excellent work done so far by the Crown in responding to homelessness among Māori during the COVID-19 outbreak in New Zealand?*
- b) *Could Crown counsel please provide a summary of the Treaty of Waitangi objectives informing both this response and the Homelessness Action Plan implemented earlier this year?*
- c) *Could Crown counsel please specify what Treaty concessions are being made, such that in light of the Crown's current and extensive responses to homelessness, there are urgent Treaty of Waitangi breaches to be engaged with regarding homelessness?*

This letter responds to each part of your request.

- a) ***Could Crown counsel please provide a break-down of what sounds like the excellent work done so far by the Crown in responding to homelessness among Māori during the COVID-19 outbreak in New Zealand?***

***The Ministry of Housing and Urban Development (HUD)***

As part of our COVID-19 response, it was immediately apparent that Government needed to focus on helping people experiencing homelessness<sup>1</sup>. Rough sleepers and people in night shelters or boarding houses with shared facilities where they cannot maintain physical distancing were identified as being particularly at risk.

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<sup>1</sup> New Zealand's official definition of homelessness is broad and covers people who are without shelter, in emergency and temporary accommodation and living as a temporary resident in a severely overcrowded private dwelling.

In response to COVID-19, at the introduction of Alert Levels HUD worked urgently to increase emergency housing supply for New Zealanders living in vulnerable accommodation<sup>2</sup> and experiencing homelessness. HUD worked with community and transitional housing providers, Housing First providers, iwi and Māori organisations, and private accommodation providers, to secure more places. A place is defined as one unit and each place can house one household that consists of one or more people. Housing providers linked guests with food, checking in on their wellbeing on a regular basis, and connecting them with other essential services such as healthcare.

HUD has been focused on this critical role of sourcing emergency accommodation, and placing those who were homeless. Since the Alert Levels were put in place, HUD has secured over 1,200 places, most commonly in motels. An estimated 63 percent of people housed through this emergency response identify as Māori.

Work is now underway to find more permanent housing for those that have been housed under Alert Levels 3 and 4.

During Alert Levels 4 and 3, it was more important than ever to ensure tenancies were sustained and tenants did not have to face the prospect of homelessness. It was also critical from a public health perspective that people were able to self-isolate within bubbles, generally in their own homes during the global pandemic. However, continuing with the termination protections helped ensure that for public health reasons, families and individuals are able to self-isolate if needed.

For these reasons, the Government passed the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (the Act) on 26 March 2020 which, amongst other arrangements, amended the Residential Tenancies Act 1986 to protect tenants from having their tenancies terminated for three months. Further information can be found at [www.hud.govt.nz/residential-housing/covid-19-rent-freeze-and-tenancy-terminations/](http://www.hud.govt.nz/residential-housing/covid-19-rent-freeze-and-tenancy-terminations/).

### ***Kāinga Ora – Homes and Communities***

Under Alert Level 4, Kāinga Ora – Homes and Communities (Kāinga Ora) paused all non-essential placement activity<sup>3</sup> for public housing—prioritising those that were homeless. In Alert Level 3, Kāinga Ora resumed new public housing needs assessments. In Alert Level 2, offices re-opened and non-essential placement and transfer of customers recommenced.

At the time New Zealand entered Alert Level 4<sup>4</sup>, 123 transitional housing places were ready to occupy, and a further 125 were delivered by 23 April 2020.

### ***Te Puni Kōkiri***

As part of the whole-of-government immediate response to the COVID-19 pandemic, Te Puni Kōkiri provided targeted and strategic support to hard-to-reach whānau and vulnerable whānau, including Māori experiencing homelessness, through the Whānau Māori Community and Marae Response Fund. This included partnering with whānau, hapū, iwi and communities to give them the tools and resources they needed to support a targeted response.

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<sup>2</sup> In the context of COVID, accommodation was considered 'vulnerable' if it did not enable people to safely isolate their household (which may have been an individual) at Alert Level 4. This may have been because their accommodation had shared facilities where too many people used the same kitchen or bathroom like night shelters and some boarding houses or campgrounds.

<sup>3</sup> Examples of non-essential placement activity include applications for a transfer by people living in a Kāinga Ora home or someone living with family but had an application for their own housing.

<sup>4</sup> 11:59pm Wednesday 25 March 2020

### ***The Ministry of Social Development***

Under Alert Level 4, the Ministry of Social Development (MSD) made a number of changes to business as usual housing activity in order to comply with lock-down restrictions, ensure that people have accommodation where they can safely self-isolate, and to allow MSD to focus its resource on supporting those whose income and employment has been affected by COVID-19. Steps taken by MSD include:

#### *Longer emergency housing grants national directive*

From 30 March 2020, MSD began issuing Emergency Housing Special Needs Grants (EHSNGs) for up to 21 nights for clients who have been in emergency housing for more than seven nights. Clients still need to meet the usual eligibility criteria for emergency housing.

#### *Fast track Income Related Rent reviews due to income decreases related to COVID-19*

MSD established an expedited process to ensure that public housing tenants whose income had been impacted by COVID-19 were quickly re-assessed to ensure their rent reflects their current circumstances.

#### *Pause on out-bound calling (Register Management)*

MSD paused out-bound calling to applicants on the Public Housing Register in order to focus resource on delivering critical COVID-19 support to affected people. Where clients proactively contacted MSD about a change in circumstances that affected their housing application, MSD continued to note those changes to ensure the applicant is not disadvantaged.

#### *New public housing assessments paused*

Under COVID Alert Level 4 it was not possible to carry out quality public housing assessments whilst also delivering other critical COVID support. Where a client had an immediate housing need that could not be met through other temporary accommodation assistance (e.g. Temporary Housing Service), MSD continued to provide emergency housing assistance and public housing assessments for Emergency Housing clients.

#### *Pause on non-essential placements in transitional and public housing*

At COVID-19 Alert Level 4, all non-essential placements into transitional and public housing were paused in order to help stop the spread of the virus and ensure compliance with the restrictions on movement and face-to-face contact. During this pause, MSD continued to provide emergency housing assistance to eligible people with an urgent need.

#### *Annual IRR reviews paused until further notice*

MSD paused annual reviews of Income Related Rent (IRR) until further notice. Aligned with HUD's six-month rent increase freeze, this ensured no-one living in public housing received a rent increase during this period where tenants' income has increased (eg as a result of benefit increases on 1 April 2020).

#### *Public Housing Tenancy Reviews paused until further notice*

MSD paused all Public Housing Tenancy Reviews for the duration of the Alert Level 4 to avoid creating uncertainty or anxiety for tenants. Tenancy reviews ensure that people still need public housing and that their current house continues to meet their needs.

#### *Supporting the emergency housing needs of other agencies*

MSD worked with NZ Police to support the emergency housing needs of people who could not remain in their normal place of residence because they were served with a Police Safety Order (PSO). A process was put in place at MSD service centres to manage placements and payments.

MSD recommenced the delivery of priority services at Alert Level 3. The increase in demand on MSD services and COVID-related restrictions resulted in MSD changing the way it operated over this period and some of these changes have remained, given that high demand continues. For example, appointments are now predominantly by phone, the way applications and queries are managed and processed has changed, and there is more flexibility for MSD staff to assist with queries from a different region if need be.

#### *Emergency housing*

MSD continued to provide emergency housing support to people with an urgent housing need who met the eligibility criteria for assistance. MSD implemented a new practice to support Department of Corrections clients already in the community without an appropriate place to stay by ensuring that they had access to emergency housing.

#### *Transitional housing referrals*

At Alert Level 3, MSD resumed over-the-phone referrals for clients requiring transitional housing. MSD, together with HUD, provided guidance to housing providers to support them to conduct client assessments, property inspections and moves in compliance with Ministry of Health guidelines for social distancing and hygiene.

#### *Placements*

At Alert Level 3, MSD resumed placements of clients into both public housing and transitional housing. As above guidance was provided (to transitional and public housing providers) on how placement activity can be done in accordance with Ministry of Health guidelines for social distancing and hygiene.

As movement between regions remained largely restricted at Alert Level 3, agencies agreed that clients should only be matched with vacant properties in the same region. MSD asked providers to match the highest priority local applicants to their available properties.

#### *Public housing assessments*

MSD resumed phone-based public housing assessments at Alert Level 3 with an initial focus on people and families in most need. Under Level 3, MSD assessed only those in emergency housing or with nowhere to live.

#### *Rent arrears, debt collection and 90-day notices*

While larger providers are better placed to manage rent arrears repayment plans over time, MSD understood that Community Housing Providers would need to resume debt recovery action for some tenants in rent arrears.

If a repayment plan was not feasible, CHPs needed to give their tenant written or emailed confirmation of the amount and period of arrears so they could apply to MSD for support to pay their overdue rent. Under COVID-19 legislation, tenancies could only be terminated under specific, limited grounds. Further information about these changes are noted above on page 2.

#### *Fast-tracked Income Related Rent reviews for decreased income*

Clients and providers could continue to email MSD directly if a tenant's income had reduced so MSD could adjust their Income Related Rent.

As at 12 June 2020, the following activities remained on hold until further notice:

- Tenancy reviews for public housing tenants.
- Annual reviews of Income Related Rent.
- Increases in Income Related Rent.

- Outbound calling to public housing applicants – MSD will continue to update assessments when a person proactively tells us of a change that may affect their application
- Initial screening for eligibility for public housing.

It should be noted that not all of the newly introduced payments and policy changes are in direct response to homelessness, rather they are preventative measures to protect the circumstances of many households who would otherwise be at risk.

#### *Wage Subsidy Scheme and Wage Subsidy Scheme Extension*

MSD, in collaboration other government agencies, led the development and implementation of the Wage Subsidy Scheme (WSS) and Wage Subsidy Scheme Extension. The purpose of the scheme was to support businesses, employees and self-employed workers. The scheme was designed to ensure that business could retain employees and so that employees and self-employed workers could continue to receive an income during the impact of COVID-19 to support living costs such as food and rent.

The WSS commenced on 17 March 2020 and payment rates were \$585.80 for full-time workers and \$350 for part-time workers. Payment was made as a lump sum to employers covering 12 weeks. If an employee did not remain with the employer for the 12 weeks, the employer is required to pay the surplus of unused funds. Further information about the requirements of the WSS can be found at [www.workandincome.govt.nz/online-services/covid-19/declaration-wage-subsidy.html](http://www.workandincome.govt.nz/online-services/covid-19/declaration-wage-subsidy.html).

Under the WSS, MSD has paid approximately 1,666,000 employees and self-employed workers at a value of approximately \$11 billion.

The WSS was extended on 10 June 2020 and will run until 1 September 2020, providing an additional 8 weeks of support. It is intended for the same purposes, although the eligibility criteria in relation to revenue loss of an applicant has been increased to 40 percent of annual revenues rather than 30 percent as required by the original scheme. This is so as to provide more targeted support to businesses and workers who require it.

#### *COVID-19 Income Relief Payment*

MSD has developed and implemented an income support payment for people who have lost their job from 1 March 2020 to 30 October 2020 due to COVID-19. It provides assistance with living costs after a sudden job loss and gives recipients some time to find other work. The payment covers 12 weeks of support, with rates at \$490 per week for people previously working more than 30 hours per week and \$250 for people previously working 15 hours to 29 hours per week. The payment is forecast to cost around \$570 million. The programme is due to expire on 11 February 2021.

#### *Benefit payment in increases*

As part of the Government's response to COVID-19, MSD increased main benefit rates by \$25 per week. Couples received one joint increase of \$25 per week. This increase applies to Jobseeker Support, Sole Parent Support, Supported Living Payment, Young Parent Payment, and Youth Payment. The total costs to support these changes is estimated at \$2.4 billion over the next four years. These changes were in addition to the usual payment increases made on 1 April each year.

Further, to support beneficiaries and Superannuitants, the rate of the Winter Energy Payment will double in 2020. The rates will be \$40.91 per week (single people) and \$63.64 per week (couples or people with dependents). This change is temporary for the winter of 2020 and is estimated to cost \$480 million.

### *Changes to the In Work Tax Credit*

MSD, in collaboration with other government agencies, made changes to the In Work Tax Credit (IWTC) to help households affected financially by the impacts of COVID-19. The IWTC is an income-tested cash payment of \$72.50pw (\$3,770 per year) to working families with children.

From 1 July 2020, working families will no longer need to be 'normally working' at least 20 hours a week (sole parents) or 30 hours a week (couples with children) to be eligible for the IWTC.

Removing the hours test will extend eligibility for the IWTC to all families who are not receiving a main benefit and have some level of employment income each week. This is an important change as many people may face a reduction of working hours, or variable hours, in the wake of COVID-19. It is estimated that around 19,000 low-income families will benefit from this change.

### *Expanding of rent arrears assistance*

MSD has made changes to the Rent Arrears Assistance (RAA) Housing Support Product so that more support is available to tenants at risk of losing their tenancy because they are behind in rent as a result of the impacts of COVID-19. These changes include expanding access to RAA so the payment can be considered in the first instance, as well as increasing the level of support available from \$2,000 to \$4,000.

To fund these policy changes, Cabinet agreed to establish a capital contingency of \$30.9 million. The increased support will commence 6 July 2020 shortly after the restrictions on tenancy terminations are lifted (26 June) to provide some further protection for tenants at risk of losing their tenancy because of rent arrears. The changes will continue until 31 December 2020.

### *Transitional housing contributions now an allowable cost for Special Benefit and Temporary Additional Support (TAS)*

From 30 March 2020, the contributions that clients make towards their transitional housing costs (25% of their weekly income) were an allowable cost for the purposes of accessing TAS and the grandparented Special Benefit. The effect of this means that a person in transitional housing may be eligible for a higher TAS or grandparented Special Benefit payment.

### *Stakeholder engagement*

Throughout Alert Levels 4, 3 and 2, MSD regularly engaged with a range of housing stakeholders including, Te Matapihi, Community Housing Aotearoa, the National Benefit Advocates Consultative Group and Citizens Advice Bureau. Working with HUD, MSD kept sector partners updated on the Government response to COVID-19, provided advice and guidance on safely delivering services during the pandemic, and resolving client and system issues as they have arisen.

### *Women's Refuges*

During Alert Levels 4, 3 and 2, MSD provided \$2.2 million to 55 MSD funded refuges (affiliated and non-affiliated to the National Collective of Independent Women's Refuges). The funding was to provide support for immediate needs due to COVID-19. This allowed for individual refuges to provide a range of supports to women and children during these Alert Levels, which included support for emergency refuge accommodation for women and children where Alert Level 4 and 3 rules prevented accommodation in refuges.

### **MSD and New Zealand Police**

During Alert Levels 4, 3 and 2, MSD worked with Police to support the emergency housing needs of people who could not remain in their normal place of residence due to family violence,



including those served with a Police Safety Order (PSO). Between 28 March 2020 and 4 May 2020, MSD provided accommodation support to 497 alleged offenders and victims. MSD continued to provide this support until the end of May 2020, with access to support being easier with easing of restrictions to Alert Level 2 on 13 May 2020.

### **MSD and Department of Corrections**

During Alert Levels 4, 3 and 2, MSD continued to work with the Department of Corrections (Corrections) to ensure the immediate housing needs of people leaving prison and those serving community-based orders and sentences were met. There is an existing practice with a Memorandum of Understanding (MOU) between these two agencies, which takes a risk-based approach.

An Emergency Accommodation COVID-19 referral process was established, and all people being released from prison were actively triaged by Corrections staff locally and by a National Office team. During Alert Levels 4, 3 and 2, 291 referrals to the Emergency Accommodation initiative were received. As at 29 May 2020, 123 people have been placed in Emergency Accommodation, with 71 percent of these placements being for people who identify as Māori. Table One shows a breakdown of the number of placements by region and ethnic group.

Table One: Number of Emergency Accommodation placements by region and ethnic group

Ethnic group	Lower				Total	%
	Northern	Central	North	Southern		
New Zealand Māori	7	41	21	18	87	71%
New Zealand European/Pakeha	2	8	5	11	26	21%
Pacific Peoples	2	4	0	2	8	7%
Australian	0	1	0	0	1	1%
Other	0	1	0	0	1	1%
	<b>11</b>	<b>55</b>	<b>26</b>	<b>31</b>	<b>123</b>	<b>100%</b>

\*Source: Department of Corrections

Corrections staff contacted emergency housing providers (hotels) and checked them for suitability before placement. Corrections also tried to allow people to return to the area they wanted to return to, and this was possible for the vast majority of referrals. In some instances, this was not possible because of limited accommodation options or Victims Notification Register concerns.

Remote support was provided by Corrections' Out of Gate services to support people using this emergency accommodation to transition to more permanent housing solutions. More information about Out of Gate Services can be found at [www.corrections.govt.nz/\\_data/assets/pdf\\_file/0018/13617/Budget\\_2016\\_Factsheet\\_-\\_OOG.pdf](http://www.corrections.govt.nz/_data/assets/pdf_file/0018/13617/Budget_2016_Factsheet_-_OOG.pdf)

**b) Could Crown counsel please provide a summary of the Treaty of Waitangi objectives informing both this response and the Homelessness Action Plan implemented earlier this year?**

The Crown recognises that addressing homelessness needs to be guided by Te Tiriti o Waitangi and Māori values. The Crown's current approach to Māori housing is led by Te Maihi o te Whare Māori – the Māori and Iwi Housing Innovation (MAIHI) Framework for Action. This puts Māori at the core of the Government's housing programme. As such, the Crown's more recent housing solutions have been designed, and will be implemented, adopting a kaupapa Māori approach where appropriate, with keen awareness to and respect for the principles of Te Tiriti o Waitangi.

As COVID alert levels were implemented, HUD was conscious of the need to work closely with housing providers and whānau support providers, including iwi and kaupapa Māori organisations, to house, protect and support homeless whānau and individuals throughout the lockdown. A small number of kaupapa Māori providers were identified and contracted to work specifically in urgency. They supported an estimated 160 people. This is in addition to the broader programme of work.

HUD supported iwi and Māori organisations to boost essential services and to find alternative accommodation to support Māori communities in more remote settings where accommodation options are limited, including mobile homes and local camping ground facilities.

This was done by facilitating access to temporary accommodation options held by other government agencies (e.g. mobile homes that were hired by MBIE) and providing funding to secure this accommodation.

Examples of the partnering HUD engaged with include:

- Working with Te Kahu o Taonui in Northland: the iwi collective played a vital role in sourcing and filling emergency accommodation, with 64 mobile homes, assisting 116 pakeke and their tamariki to be safely housed throughout the lockdown and to be connected to necessary wrap-around services.
- Visions of a Helping Hand a provider based in Rotorua that received funding assistance to provide emergency accommodation and support to whānau Māori due to COVID-19. Visions of a Helping Hand supported up to 70 people.

Funding announced as part of Budget 2020 will support a more permanent response to the COVID-19 outbreak and homelessness. Budget 2020 will support Government agencies to work collaboratively and with partner organisations (such as Te Matapihi) to move into the next phase of addressing homelessness, details of which will be provided to all participants in the Wai 2750 Inquiry in the course of the Crown providing its evidence for the Tribunal. The Crown can indicate that this next phase of addressing homelessness includes meeting the long term needs of homeless whānau and individuals. Partnership-based initiatives such as Housing First will enable the right ongoing social and cultural support is made available to prevent people from falling back into homelessness.

Budget 2020 provides funding for an increase of 8,000 public houses. Applying the Government's MAIHI Framework for Action, putting Māori at the core of the Government's housing programme means, among other things, Government agencies working collaboratively together and with Māori partners to increase the supply of public and transitional houses so as to address the current housing crisis where most needed and thereby meeting the needs of Māori.

In relation to the Aotearoa New Zealand Homelessness Action Plan, HUD's objective is to deliver on the Treaty of Waitangi principles of partnership, participation and protection in regards to homelessness. The Homelessness Action Plan explicitly records the Crown's recognition that Te Tiriti guaranteed Māori rangatiratanga. This means supporting Māori to deliver solutions for Māori, and empowering local communities to develop and deliver services to achieve Māori housing and well-being outcomes. It also means transforming systems, policies and services to work better for Māori. Each action must enable rangatiratanga to be exercised by Māori.

The Government's role, as Treaty partner, is to support Māori to get where they want to be, and for the Government to shape a platform that enables Māori to get there. This means



supporting Māori to deliver solutions for Māori, and empowering local communities to develop and deliver services to achieve Māori housing and wellbeing outcomes. It also means transforming systems, policies and services to work better for Māori.

The Homelessness Action Plan can be found at [www.hud.govt.nz/assets/Community-and-Public-Housing/Support-for-people-in-need/Homelessness-Action-Plan/271a3c7d79/Homelessness-Action-Plan.pdf](http://www.hud.govt.nz/assets/Community-and-Public-Housing/Support-for-people-in-need/Homelessness-Action-Plan/271a3c7d79/Homelessness-Action-Plan.pdf).

**c) Could Crown counsel please specify what Treaty concessions are being made, such that in light of the Crown's current and extensive responses to homelessness, there are urgent Treaty of Waitangi breaches to be engaged with regarding homelessness?**

I can confirm that no concessions are being made, so this part of your request is refused under section 18(g) of the Act, as the information requested is not held by HUD.

You have the right to seek an investigation and review of my response by the Ombudsman, in accordance with section 28(3) of the Act. The relevant details can be found on the Ombudsman's website [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

Yours sincerely



Kararaina Calcott-Cribb  
Tumuaki – Te Kāhui Kāinga Ora