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Management of the Wage Subsidy Scheme



Photo acknowledgement:
Chris Tse, Office of the Auditor-General

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Auditor-General's overview

E ngā mana, e ngā reo, e ngā karangarangatanga maha o te motu, tēnā koutou.

Between March and December 2020, the Government paid businesses more than \$13 billion through the Wage Subsidy Scheme as part of its response to Covid-19. That amount is about the same as the Government's total annual spending on education, and nearly three times its total annual spending on law and order.

The Wage Subsidy Scheme is the Government's largest single area of spending in response to Covid-19. The Government has estimated that the Wage Subsidy Scheme has indirectly supported about 1.8 million employees.

We carried out a performance audit to review how well the Government has managed the Wage Subsidy Scheme. It is one of several reviews that my Office is carrying out about the Government's response to Covid-19. This report is intended to provide an independent perspective to Parliament and the public and help the public sector prepare for and operate any similar schemes in the future.

Not only was the overall amount of subsidy payments significant, but the Wage Subsidy Scheme was set up and implemented on a large scale and with speed. During the first two weeks, the Ministry of Social Development, which was responsible for administering the Wage Subsidy Scheme, received large numbers of applications, including more than 70,000 in one day. It also made payments of nearly \$1.8 billion on one particular day.

The focus was on getting funding to where it was needed quickly. On average, the Ministry of Social Development made payments to employers within three and a half days of receiving an application. This was possible because the Government decided to use a "high-trust" approach – this meant approving applications based on a declaration from applicants that they met the eligibility criteria.

A high-trust approach has greater risks of fraud and error. The main risks in this case included that subsidy payments could go to businesses that were not eligible and that businesses might not pass the payment on to employees. The Government appears to have understood these risks and, on balance, decided that a high-trust approach was appropriate.

Those decisions are rightly for the Government to make. My audit looked at what steps the Government took to mitigate or manage those risks and whether those steps were effective. For example, what were the steps taken to verify applicant eligibility after the initial approval and payments were made?

Managing the risks associated with a high-trust approach

The Ministry of Social Development compared the information that applicants provided against the Inland Revenue Department's records before making payments. It checked that each applicant was a genuine business operating in New Zealand and that the application was for bona fide employees.

This step reduced the risk of making subsidy payments to ineligible businesses. Tens of thousands of applications were declined because the information provided did not match the Inland Revenue Department's information about the applicant or their employees.

However, it is still possible that ineligible businesses received payments. One important eligibility requirement – that an employer has “taken active steps to mitigate the impact of COVID-19” on their business before applying – was open to interpretation. It would have been difficult for applicants to determine what was required and for the Ministry of Social Development to verify compliance.

Other steps the Ministry of Social Development (with assistance from the Inland Revenue Department and the Ministry of Business, Innovation and Employment) took to mitigate or manage risks were:

- ensuring that a process was in place to receive complaints and follow those up;
- publishing the names of some businesses that received the subsidy; and
- reviewing and investigating applications (with assistance from the Inland Revenue Department).

In my view, it is likely that these steps have encouraged several businesses to repay subsidies they should not have received. As at 5 March 2021, payments totalling \$703 million have been voluntarily paid back and \$23 million compulsorily recovered.

Reviews of applications, carried out after payments were made, consisted mainly of verbal confirmation of information from employers and, in some cases, employees. These reviews focused on checking compliance with eligibility criteria and confirming that applicants understood associated obligations.

Although the Ministry of Social Development has publicly described these reviews as audits, in my view they are not audits. In most cases, they did not involve substantiating the facts using independent, or at least documented, information (however, if a review resulted in an investigation, documentation would be requested). I am not persuaded that the reviews provide enough confidence that all applications that merit further investigation have been identified. As at 5 March 2021, 1017 cases had been referred for investigation.

I have recommended that the Ministry of Social Development test a sample of these reviews against documentary evidence held by applicants. In my view, the use of a high-trust approach at the outset needs to be balanced with adequate verification after the payment has been made to properly protect the use of public money.

I have also recommended that the Ministry of Social Development seek written confirmation from applicants of their compliance with the eligibility criteria and the obligations of receiving the subsidy. This could be targeted at larger or higher-risk applications.

The public organisations managing the Wage Subsidy Scheme have identified a number of applicants they consider might have acted unlawfully. In my view, it is important to pursue prosecutions of these applicants. This is because it is important to maintain public trust and confidence in government schemes.

Lessons from managing the Wage Subsidy Scheme

The frequency and significance of crisis events is increasing. New Zealand might need another subsidy or similar scheme at any moment – as recent events have demonstrated. Therefore, I have also recommended that the public organisations managing the Wage Subsidy Scheme properly evaluate its development, operation, and impact. There are important lessons that need to be captured and appropriate action taken to ensure that we are even better prepared next time.

Acknowledgements

I acknowledge the extraordinary commitment of public servants in both designing and delivering the Wage Subsidy Scheme in a time of national crisis. Public servants' willingness and goodwill to work exceptional hours under exceptional circumstances to support the need for rapid decision-making and payment has been outstanding.

I thank staff in the Ministry of Social Development, the Inland Revenue Department, the Ministry of Business, Innovation and Employment, and the Treasury for their assistance as we carried out this audit. I also thank those people who contacted my Office during our work and the Auckland Business Chamber, BusinessNZ, Chartered Accountants Australia and New Zealand, and the Council of Trade Unions for their views.

Nāku noa, nā



John Ryan
Controller and Auditor-General

4 May 2021

Our recommendations

We recommend that, when public organisations are developing and implementing crisis-support initiatives that approve payments based on “high-trust”, they:

1. ensure that criteria are sufficiently clear and complete to allow applicant information to be adequately verified; and
2. put in place robust post-payment verification measures, including risk-based audits against source documentation, to mitigate the risks of using a high-trust approach.

In relation to the Wage Subsidy Scheme, we recommend that the Ministry of Social Development:

3. test the reliability of a sample of the post-payment assurance work it carried out against documentary evidence held by applicants; and
4. prioritise remaining enforcement work, including:
 - seeking written confirmation from applicants (which could be targeted towards larger or risk-indicated applicants) of compliance with the eligibility criteria and the obligations of receiving the subsidy; and
 - pursuing prosecutions to recover funds and/or to hold businesses to account for potentially unlawful behaviour.

We recommend that the Ministry of Social Development, the Inland Revenue Department, the Ministry of Business, Innovation and Employment, and the Treasury:

5. carry out timely evaluation of the development, operation, and impact of the Wage Subsidy Scheme and use the findings to inform preparation for future crisis-support schemes.

About the Wage Subsidy Scheme

- 1.1 Covid-19 emerged in late 2019. By March 2020, it had become a global pandemic. The Government responded with a range of measures to protect New Zealanders, including restrictions on people's movements to slow the spread of the virus. This had a widespread impact on the population and immediate financial impact on many businesses and their employees.
- 1.2 On 17 March 2020, the Government introduced the Wage Subsidy Scheme to support businesses affected by Covid-19 to retain employees. The Government intended that this would help preserve employment connections between employers and employees and provide income for employees even when they were unable to work.
- 1.3 In this report, we refer to the Wage Subsidy Scheme as "the Scheme". We use this term to refer collectively to all three stages of the Scheme:
 1. the original wage subsidy;
 2. the wage subsidy extension; and
 3. the resurgence wage subsidy.
- 1.4 To date, the Scheme has been the largest area of spending in the Government's response to, and recovery from, Covid-19. By the end of December 2020, it had already spent more than \$13 billion¹ of public money, excluding administration costs. The Government has estimated that the Wage Subsidy Scheme has indirectly supported about 1.8 million employees.
- 1.5 We completed our work before the Government announced the most recent stage of the Scheme in March 2021. Although we have not examined this latest stage, we understand that its design, and the way it has been managed, is largely the same as the earlier three stages.
- 1.6 Our audit looked at how effectively the Ministry of Social Development, the Inland Revenue Department (Inland Revenue), the Ministry of Business, Innovation and Employment, and the Treasury managed the Scheme. We did this to provide Parliament and the public an independent view and to help the public sector prepare for and operate any future subsidies.
- 1.7 In this Part, we describe:
 - how the Scheme came about;
 - the details of the Scheme; and
 - the structure of this report.

1 This is a net figure taking into account refunds at that time.

How the Wage Subsidy Scheme came about

- 1.8 New Zealand first felt the effects of Covid-19 towards the end of January 2020, when international travel was disrupted.
- 1.9 On 2 February 2020, the Government introduced the first border restrictions to prevent people from bringing Covid-19 into New Zealand. People entering New Zealand were required to self-isolate for 14 days, and entry to people travelling from or through China was restricted to New Zealand citizens and permanent residents.
- 1.10 Treasury and Ministry of Business, Innovation and Employment officials were also considering the impact of Covid-19 on certain industries and regions and whether targeted income support might be needed. About this time, Ministry of Social Development officials began preparing advice on the income support that might be needed.
- 1.11 New Zealand confirmed its first case of Covid-19 on 28 February 2020. On 9 March 2020, Cabinet directed officials to develop targeted support options, prioritising some form of subsidy for the most adversely affected sectors. Those sectors included tourism and forestry.

The original wage subsidy

- 1.12 By mid-March 2020, the Covid-19 situation had escalated rapidly. The impact of Covid-19 was felt more widely in the economy. On 16 March 2020, Cabinet agreed to implement a temporary wage subsidy for 12 weeks. We refer to this first stage of the Scheme as “the original wage subsidy”.
- 1.13 The Government announced the original wage subsidy on 17 March 2020 and allocated \$5.1 billion to paying it. The original wage subsidy was not limited to any industry or sector.
- 1.14 In the following week, the Government increased its response to Covid-19. On 19 March 2020, the borders were closed. On 21 March 2020, the Government introduced a four-level Alert System to help control transmission of Covid-19.
- 1.15 The Alert System involved levels of restriction on people’s movement, including across the border and the operation of businesses. Alert Level 4 was the highest alert level and required people to stay at home. However, people were allowed to leave their homes to obtain or provide essential services or exercise in their local area.
- 1.16 When the Government introduced the Alert System on 21 March 2020, it announced that New Zealand was at Alert Level 2. By 25 March 2020, the Government had implemented Alert Level 4 and declared a national state of emergency.

- 1.17 The various alert levels affected employers and employees. Although some could work from home under lockdown, domestic travel was restricted and many people were unable to work.
- 1.18 On 27 March 2020, the Minister of Finance announced some modifications to the original wage subsidy. These included a clearer expectation that employers would pass on money from the original wage subsidy to employees who could not work because of the lockdown. Employers also had to agree to keep employees in employment for the period of the original wage subsidy.
- 1.19 New Zealand remained at Alert Level 4 until 27 April 2020. It then moved to Alert Level 3, which still involved significant restrictions, until 13 May 2020.
- 1.20 On 11 May 2020, Cabinet agreed to extend the period of the original wage subsidy for a further eight weeks. We refer to this stage of the Scheme as “the wage subsidy extension”. The Government publicly announced the wage subsidy extension on 14 May 2020 and allocated a further \$3.2 billion to it.

The resurgence wage subsidy

- 1.21 The country returned to Alert Level 1 on 8 June 2020. Then, in early August 2020, new cases of Covid-19 were found in the Auckland community. On 12 August 2020, the Government placed Auckland into Alert Level 3 and the rest of the country into Alert Level 2.
- 1.22 On 17 August 2020, Cabinet agreed to a further stage of the Scheme. We refer to this stage as “the resurgence wage subsidy”. The Government publicly announced the resurgence wage subsidy on 17 August 2020 and allocated a further \$510 million to it.
- 1.23 At the same time, the Government announced that it also expected more businesses to become eligible for the wage subsidy extension. It estimated that this would cost an additional \$1.1 billion on top of the \$510 million allocated to the resurgence wage subsidy.
- 1.24 Applications for the resurgence wage subsidy closed on 3 September 2020. From 7 October 2020, the whole country was once again at Alert Level 1.
- 1.25 In December 2020, the Government announced that further support would be provided in the event of further resurgence of the virus. This would include an additional stage of the Scheme if there is a regional or national move to Alert Level 3 or 4 for seven days or more.

Details of the Wage Subsidy Scheme

- 1.26 Cabinet agreed the following criteria employers needed to meet to be eligible for subsidy payments:

- The applicant must operate a business in New Zealand that employs and pays the employees named in the application (including a business where someone is self-employed).
- The employees named in the application must be legally employed by the business and employed in New Zealand.
- The business must have experienced the minimum specified loss in actual or predicted revenue, and that loss must be attributable to Covid-19.
- The business must have taken active steps to mitigate the impact of Covid-19.
- The business cannot claim payment for any of the employees named in the application in combination with some other types of government support.

1.27 Figure 1 shows the loss in revenue thresholds that made a business eligible for subsidy payments, and the time frames for each stage of the Scheme.

Figure 1
Loss in revenue requirement to be eligible for subsidy payments

Stage of the Wage Subsidy Scheme	Loss in revenue requirement*	Period that the loss in revenue could occur in	Maximum time subsidy would be paid for**	Period open for receiving applications
Original wage subsidy	30% for a period of one month or 30 days.	1 January to 9 June 2020.	12 weeks.	17 March to 9 June 2020.
Wage subsidy extension	40%*** for a continuous 30-day period.	40 days before applying, but no earlier than 10 May 2020.	8 weeks.	10 June to 1 September 2020.
Resurgence wage subsidy	40% for a 14-day period.	12 August to 10 September 2020.	2 weeks.	21 August to 3 September 2020.

* Loss in revenue compared to an equivalent period in 2019. New or high-growth businesses could use an equivalent period from earlier in the year.

**Businesses could not receive a subsidy for a period for which they were already receiving certain other support in respect of a given employee.

***This was initially publicly announced as 50%, but it was reduced to 40% before the wage subsidy extension opened for applications.

Subsidy payments were at a fixed rate for each employee and were initially capped

1.28 Businesses meeting the eligibility criteria were paid \$585.80 each week for each full-time employee and \$350.00 each week for each part-time employee. Full-time work was defined as 20 or more hours' work each week.

- 1.29 When recommending these payment amounts, officials took into account median weekly earnings, the amount paid in previous subsidy schemes, and other forms of support, such as paid parental leave. In paragraph 5.22, we describe what happened when part-time employees' normal wages were less than \$350 each week.
- 1.30 Payment to each business was initially capped at \$150,000, regardless of the number of employees. On 23 March 2020, Cabinet agreed to remove this cap because of the need to support all employees affected by Covid-19, including those in large organisations.
- 1.31 Removing the cap increased the original wage subsidy's budgeted cost from \$5.1 billion to \$9.3 billion. Employers who had already applied could retrospectively apply for employees who had been outside of the cap.
- 1.32 Payments were made as a lump sum to each eligible business. Separate payments were made for each stage of the Scheme a business was eligible and applied for.

The integrity of payments depended on employer declarations

- 1.33 As part of its decisions about the Scheme, Cabinet noted that the Ministry of Social Development's intended approach to administering the Scheme had several characteristics:
- Employers would make applications for affected employees.
 - Employers would be required to make a declaration when they applied that they:
 - met the eligibility criteria;
 - had discussed the application with named employees, who consented to sharing information in the application for the purposes of verification;
 - consented to the possibility of details in the application being verified with other agencies;
 - consented to the Ministry of Social Development publishing information about their receipt of the subsidy;
 - were aware that they might be audited and prosecuted for fraud if they provided false information;
 - would notify the Ministry of Social Development if circumstances changed that affected their eligibility; and
 - would repay any amount that they were not entitled to.
 - The Ministry of Social Development would not verify the information in the application before payment, but could later audit an application, verify information with other public organisations, and refer possible instances of fraud for investigation.

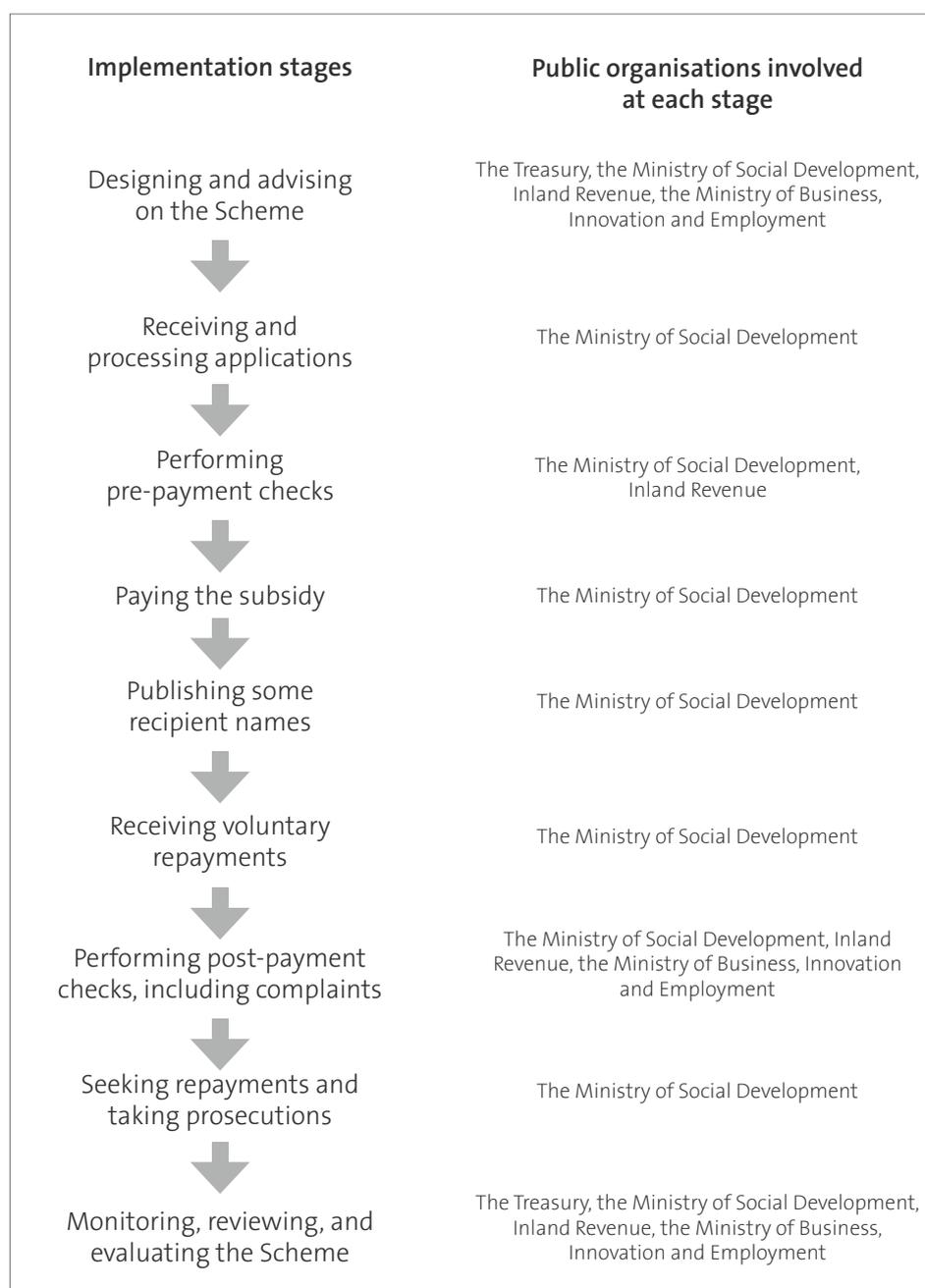
A “high-trust” approach

- 1.34 Getting support to employers quickly was an important part of the Scheme. It was the over-riding policy consideration behind the “high-trust” approach. The Government had previously used a high-trust approach to a wage subsidy for people affected by the Canterbury and Kaikōura earthquakes.
- 1.35 The approach is high-trust because applications were approved, and payments made, largely based on information applicants provided with limited upfront verification of its accuracy. We discuss this in Part 4.
- 1.36 Importantly, applicants did not have to provide information to prove their eligibility, they just had to declare that they met the eligibility criteria. This was not a written declaration – in most cases applicants checked the declaration box in the online application form.
- 1.37 It is not uncommon or inappropriate for governments to use high-trust approaches in emergencies to quickly provide support to people. However, these approaches increase the risk of fraud and error. Payments could be made to those who are not eligible or who fraudulently seek to exploit the high-trust approach.
- 1.38 This risk is increased because there is less focus on validation before payment. Instead, officials rely on the honesty and integrity of applicants, the ability of applicants to understand and assess eligibility criteria accurately, and the actual and deterrent effects of work carried out after payments have been made.
- 1.39 The trade-offs between speed, up-front verification, and post-payment assurance are critical matters to consider when determining how a high-trust approach should be implemented.

The public organisations involved in administering the Scheme

- 1.40 The Ministry of Social Development, Inland Revenue, the Ministry of Business, Innovation and Employment, and the Treasury were the public organisations involved in administering the Scheme.
- 1.41 Figure 2 shows the main stages in the Scheme’s implementation, from application through to payment, and the post-payment checking processes. Figure 2 also shows which public organisations were involved at each stage.

Figure 2
Stages of the Wage Subsidy Scheme’s implementation and the public organisations involved at each stage



Source: Illustrated by the Office of the Auditor-General.

Structure of this report

- 1.42 Our assessment of how well the Scheme was managed comprised four main lines of inquiry. These lines of inquiry form the structure of this report:
- Part 2 discusses whether the Scheme was effectively set up in line with the high-trust policy direction.
 - Part 3 discusses whether subsidy payments were effectively administered.
 - Part 4 discusses whether the integrity of the Scheme was effectively managed.
 - Part 5 discusses whether there was effective oversight, monitoring, and review of the Scheme.
- 1.43 In the Appendix, we outline the scope of our work, how we carried it out, and the limitations of our work.

Setting up the Wage Subsidy Scheme

2

- 2.1 In this Part, we describe:
- the process to set up the Scheme, including the extent to which officials:
 - drew on previous experiences when designing and implementing the Scheme and identified the risks of a high-trust approach; and
 - implemented Cabinet’s decisions;
 - public organisations’ roles and responsibilities; and
 - how public organisations resourced this work.

Summary of findings

- 2.2 The Scheme was set up effectively, was in line with Cabinet decisions, and used a high-trust approach.
- 2.3 Officials’ advice to Cabinet about the design of the Scheme was informed by similar (but much smaller) schemes for the Canterbury and Kaikōura earthquakes. Officials clearly identified the risks associated with the high-trust approach and the main trade-offs between:
- ease of access to, and speed of, payment; and
 - the ability to control fraud, abuse, and error risks.
- 2.4 The high-trust approach involved payments to employers based on a declaration. By agreeing to the declaration, businesses stated that they:
- met the eligibility criteria, including that their business had experienced the minimum decline in actual or predicted revenue to be eligible and that loss was attributable to Covid-19;
 - had taken active steps to mitigate the impact of Covid-19 on the business;
 - would notify the Ministry of Social Development if circumstances changed that affected their eligibility; and
 - would repay any amount that they were not entitled to.
- 2.5 Cabinet did not specify a requirement to verify each applicant’s eligibility when they applied. However, Cabinet noted that applicants might be audited after receiving payment.
- 2.6 To meet Cabinet’s expectations that payment would be made quickly, public servants worked extremely hard to develop and implement the Scheme in a short time frame and difficult circumstances.
- 2.7 The public organisations involved in administering the Scheme provided considerable resources (including, people, systems, and finances). This affected their capacity to perform some of their core services.

Officials drew on previous experience and provided advice on the risks of high-trust approaches

- 2.8 Similar income support schemes had been used previously to help businesses after the Canterbury and Kaikōura earthquakes. Although those schemes were smaller in scale and cost, limited to particular parts of the country, and restricted to businesses of a certain size, they still provided useful lessons.
- 2.9 For example, the Ministry of Social Development had administered the previous schemes and was aware that the system it used for those schemes was adequate and secure. The Ministry of Social Development also had previous experience matching information in subsidy applications with information that other public organisations held.
- 2.10 Cabinet wanted to pay as many eligible businesses and their employees as quickly as possible.
- 2.11 To meet Cabinet's expectations of speed, the Ministry of Social Development advised using a high-trust approach. A high-trust approach meant that much of the information an applicant provided did not have to be verified before making a payment.
- 2.12 However, officials did identify risks with a high-trust approach. We were told about discussions with Ministers and saw written advice about these risks. The advice identified risks of fraud or error with approaches that were poorly targeted or that involved limited entry barriers and quick payment.
- 2.13 Officials also provided advice on how to manage or mitigate these risks, including:
- communicating recipients' obligations;
 - having a declaration;
 - future penalties for not meeting requirements at the start;
 - publishing recipients' names; and
 - a "significant ramp up" of anti-fraud and auditing activity after payment.
- 2.14 Officials also explored options with more targeted or capped arrangements that could reduce fiscal risks to the Crown.

The Wage Subsidy Scheme was implemented in line with Cabinet's decisions

- 2.15 Implementation of the Scheme reflected Cabinet's decisions, including the various changes that Cabinet made to the Scheme over time. With each stage, officials reflected Cabinet's changes to the Scheme in the declaration. The declaration became an important record of the eligibility criteria and applicant obligations.
- 2.16 As well as steps agreed to by Cabinet, the Ministry of Social Development also took an important step. From approval of the first payment on 17 March 2020, the Ministry decided it would verify some applicant information before payment. The Ministry carried out that work with assistance from Inland Revenue.
- 2.17 Although Cabinet did not explicitly require verifying applicant information before payment, it was, in our view, a responsible and effective operational decision. It reduced the risk of making payments to ineligible businesses and people. We discuss this in Part 4.
- 2.18 On 16 March 2020, Cabinet noted that the Ministry of Social Development, with the support of Inland Revenue, could develop more detailed criteria to determine potential revenue loss. The level of revenue loss is one of the main determinants of eligibility for subsidy payments. The Ministry subsequently provided clarification about:
- how councils' rates revenue should be recognised for a financial year;
 - State sector organisations' third-party or commercial revenue reductions attributable to Covid-19; and
 - charities' revenue, including grants and donations.
- 2.19 The Treasury's advice and subsequent Cabinet papers identified audit of declarations as one way of mitigating some integrity risks. Although Cabinet agreed to the possibility of post-payment audits, the term audit was not defined.
- 2.20 By not defining audit, there was a risk that decision-makers, the public organisations involved in administering the Scheme, and the public might have different expectations of the post-payment work that could be, and ultimately was, carried out.

Public organisations' roles and responsibilities were clear

- 2.21 Ministers and senior officials decided that the Ministry of Social Development would administer the Scheme. This decision was not made until two days before the first applications were submitted and payments made.
- 2.22 The Ministry of Social Development had the ability to start making payments quickly (within five days) because it had carried out a similar function previously.
- 2.23 Consideration was given to whether Inland Revenue should administer the Scheme. Inland Revenue had functionality that could have been used, but it was about to release the latest stage of its Business Transformation Programme (which entailed systems being offline) and was approaching a busy time in the tax-filing cycle. Inland Revenue was later called on to carry out other activities related to Covid-19, including the Small Business Cashflow Scheme.
- 2.24 One of the intended benefits of Inland Revenue's Business Transformation Programme was giving Inland Revenue greater ability and agility to quickly implement policy changes and new policy. However, that ability and agility is not expected to be fully functional until the Business Transformation Programme is completed. It would have taken many weeks before Inland Revenue could make payments.
- 2.25 The timing of this decision gave the Ministry of Social Development a small amount of time to prepare. However, once the decision was made, the Scheme was quickly established. In our view, public organisations involved in administering the Scheme worked well together under challenging circumstances and time frames. This included consulting effectively about important decisions and connecting staff from the Ministry of Social Development with Inland Revenue to appropriately share information.
- 2.26 The public organisations involved in administering the Scheme were clear about roles and responsibilities. The Treasury had primary responsibility for policy work developing the Scheme. The Ministry of Social Development, Inland Revenue, and the Ministry of Business, Innovation and Employment were also involved in that process.
- 2.27 The Ministry of Social Development was responsible for processing applications and making payments. It continues to be responsible for pre- and post-payment reviews, investigations, and prosecutions to support enforcement.
- 2.28 The Ministry of Social Development also received and considered complaints about applicants' eligibility for the subsidy. Complaints continue to inform the Ministry's review and investigation work.

- 2.29 Inland Revenue supported the Ministry of Social Development to verify information. It assisted, and continues to assist, the Ministry in the review and investigation process.
- 2.30 Inland Revenue also received and considered complaints about applicants related to tax matters and acted on those where necessary. Inland Revenue continues to assist the Ministry of Social Development, and complaints about tax matters continue to inform its work.
- 2.31 Through its contact centre and employment services branch (which includes the Labour Inspectorate), the Ministry of Business, Innovation and Employment provided information on the Scheme to employers and employees by phone or email.
- 2.32 The Ministry of Business, Innovation and Employment also monitored and enforced compliance with employment standards when complaints brought those issues to its attention. It continues to provide information for employers and employees, and complaints about employment matters continue to inform its work.
- 2.33 Although the Ministry of Business, Innovation and Employment was responsible for co-ordinating complaints, all the public organisations involved in administering the Scheme received complaints and referred them to each other where appropriate.

Significant resources were required to manage the Wage Subsidy Scheme

- 2.34 The goodwill and willingness of public servants were critical for the Scheme's success. They worked exceptional hours in very difficult circumstances to support quick decision-making and, later, to process a large number of applications and make payments.
- 2.35 Public servants who worked on the Scheme faced challenges working from home, such as not having available direct peer support or some equipment or systems. Public servants also experienced some internet connectivity and technical challenges when remotely accessing systems. They also had to deal with distressed people who were facing losing their businesses and/or livelihoods.
- 2.36 Implementing the Scheme stretched the Ministry of Social Development's resources. At the beginning of the Scheme, any staff member who had a laptop who was not delivering another essential service became involved in processing applications.
- 2.37 We were told that, on a busy day, the Ministry of Social Development had more than 800 staff processing applications. In total, 1809 Ministry staff were given system access to process applications.

- 2.38 Supporting the Scheme also placed large demands on the Ministry of Social Development's call centre. On its busiest day, the Ministry had 183 staff available to answer calls about the Scheme. Between 17 March and 21 October 2020, the Ministry received 146,136 calls about the Scheme and managed to answer 124,685 of those.
- 2.39 About 100 additional Ministry of Social Development full-time equivalent staff have been working on targeted reviews of applications, following up allegations and complaints, and carrying out investigations. It is likely that between 40 and 50 Ministry staff who usually work on benefit fraud will be working on subsidy investigations for another 12 to 18 months.
- 2.40 The Ministry of Social Development made more resources available for its work on the Scheme over time. In late March 2020, Cabinet approved funding for the Ministry of \$14.9 million for information technology (IT) improvements and 199 additional staff, including 10 "audit staff" to help it process up to 460,000 subsidy applications. The Ministry told us that it also used 11 full-time equivalent experienced compliance staff from the Department of Internal Affairs and 25 full-time equivalent staff from Inland Revenue. In August 2020, a further \$400,000 of funding was agreed for the Ministry of Social Development for subsidy work.
- 2.41 The Ministry of Social Development also found ways to use staff more effectively. This included introducing weekend shifts and freeing up staff by making some of its processes more efficient (such as automating some aspects of verification work and emailing rather than phoning applicants for more information).
- 2.42 Using staff from across the Ministry of Social Development to work on the Scheme affected its capacity to carry out its main services. This included putting some existing investigations into benefit fraud on hold. However, some of these existing investigations would have been delayed anyway because of the Alert Level restrictions.
- 2.43 The Ministry of Business, Innovation and Employment used its existing Labour Inspectorate and wider engagement staff to educate employers, engage in dispute resolution, and manage complaints. An additional 10 staff – eight early resolution officers, one support officer, and one manager – were allocated to the Labour Inspectorate.
- 2.44 Ministry of Business, Innovation and Employment staff received training and support that was specifically about managing complaints about the Scheme. This included a detailed training manual, a question bank where they could look for similar complaints, and process documents.

- 2.45 Inland Revenue also used its staff to support work on the Scheme. At one point, Inland Revenue had nearly 200 of its staff members working on the Scheme. Some were paired with a Ministry of Social Development employee to support them in reviewing applications, and others answered phone calls from Ministry staff to check applicant details. Inland Revenue staff were involved in confirming employer status and employee numbers and determining the legitimacy of applicants who were seeking a change to self-employed status to obtain subsidy payments.
- 2.46 Like the Ministry of Social Development, Inland Revenue received additional funding for its work on the Scheme. Inland Revenue got \$1.5 million approved in late March 2020 for supporting the Ministry in 2019/20. Inland Revenue also received additional funding in 2020/21. This additional funding enabled Inland Revenue to reprioritise staff to work on the Scheme.
- 2.47 The public organisations involved in administering the Scheme could not readily identify the total administrative costs of developing and managing the Scheme, other than the additional targeted funding made available to Inland Revenue and the Ministry of Social Development.
- 2.48 Using existing systems and staff with relevant skills helps mitigate fraud risks. It also reduces the need for additional training and upskilling. However, this also comes at a cost to a public organisation's main work.
- 2.49 In the Ministry of Social Development's case, resources will continue to be diverted from investigating benefit fraud for many months. We understand that the public organisations involved in administering the Scheme want to get back to their core services as quickly as possible. However, we are concerned that this will disincentivise continued efforts on post-payment integrity work. This work is important to provide assurance to Parliament and the public that reasonable steps are being taken to ensure that the significant public money associated with the Scheme has been spent appropriately. The Ministry has confirmed that it intends to use resources from Inland Revenue to assist with its integrity work on applications for subsidy payments, and Inland Revenue has agreed in principle to this.

3

Making subsidy payments

- 3.1 In this Part, we describe:
- how quickly payments were made;
 - whether the eligibility criteria were met;
 - how adequate the payment system and processes were;
 - how effective communication about the Scheme was; and
 - how well repayments were managed.

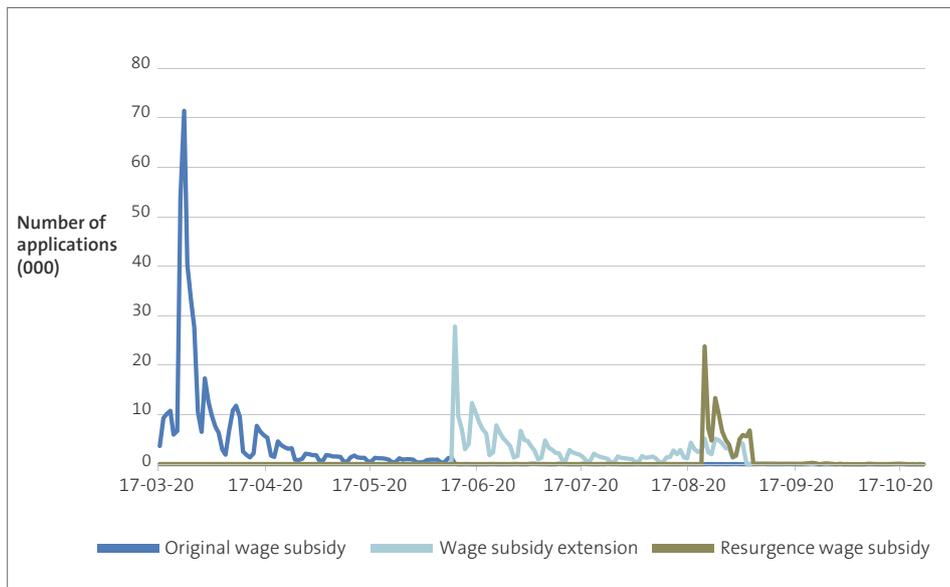
Summary of findings

- 3.2 Subsidy payments were efficiently managed. Many applications were processed and paid within short time frames. Support was provided to New Zealand employers and, in turn, their employees at a critical time.
- 3.3 Applicants assessed whether they were eligible, with officials verifying some aspects of the application before making payments. Payments were paid on average within three and a half days of receiving an application. This was well within the Ministry of Social Development's target of five days.
- 3.4 One eligibility requirement – that a business must have taken active steps to mitigate the impact of Covid-19 – was open to considerable interpretation. As a result, there is a risk that some businesses have received subsidy payments when they could have accessed support from other sources. However, the unclear definition of this requirement means that this cannot be determined with any certainty.
- 3.5 Nearly \$300 million was paid to public organisations. A few large organisations received most of this. In the early stages of the Scheme, there was a lack of clarity about whether public organisations were eligible for subsidy payments.

A significant number of subsidy payments were made quickly

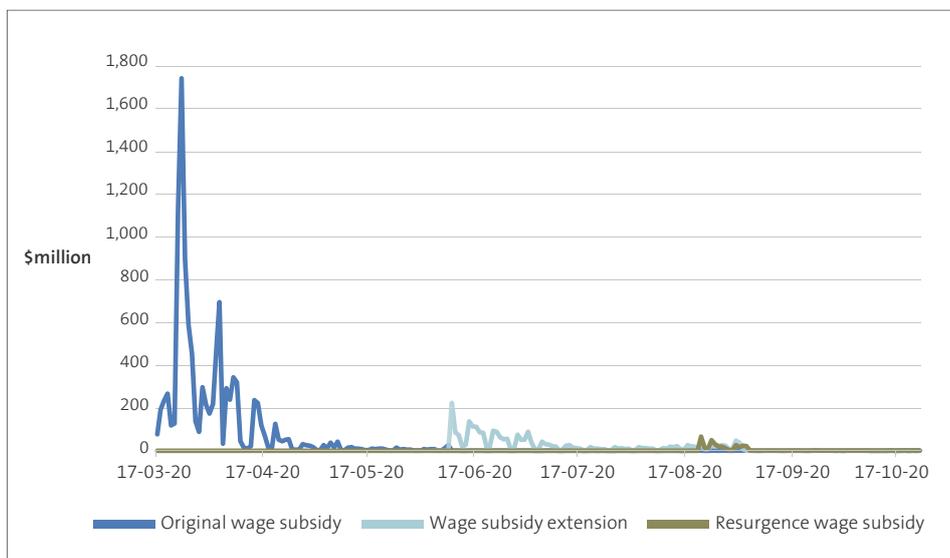
- 3.6 Figure 3 shows the daily number of applications received. The number of applications received within the first two weeks of the Scheme was high. More than 70,000 applications were received on one day.
- 3.7 Figure 4 shows the daily amount of payments made. Payments totalling nearly \$1.8 billion were made on one day.
- 3.8 The Ministry of Social Development estimated that, excluding sole traders, the Scheme supported more than half of the jobs in New Zealand at its peak.

Figure 3
Number of applications for the wage subsidy received daily



Source: Our analysis of the Ministry of Social Development's data, produced 23 October 2020, for accepted and declined applications. See the Appendix for information about the limitations of our analysis.

Figure 4
Amount of wage subsidy payments made daily



Source: Our analysis of the Ministry of Social Development's data, produced 23 October 2020, for accepted applications. See the Appendix for information about the limitations of our analysis.

3.9 Figure 5 shows that, on average, payments were made well within the Ministry of Social Development's five-day target. Although most payments were made in a timely manner, a small number of applications took much longer to process. For example, in the early weeks of the Scheme, the average time it took to make payments exceeded the five-day target on several occasions. This reflected the large number of applications during the early weeks of the Scheme.

Figure 5
Average number of days between application and payment, as at 23 October 2020

Stage	Average number of days to make payment
Original wage subsidy	4.25
Wage subsidy extension	2.52
Resurgence wage subsidy	1.82
All three subsidy stages	3.48

Source: Our analysis of the Ministry of Social Development's data. See the Appendix for information about the limitations of our analysis.

Payment amounts varied during the Scheme

3.10 Figure 6 shows the average payment for the original wage subsidy was about \$25,000. For the wage subsidy extension (Figure 7) it was about \$12,300, and for the resurgence wage subsidy (Figure 8) it was about \$3,700. In all three stages of the subsidy, more than 99% of the payments were less than \$1 million.

Figure 6
Number and average value of payments for the original wage subsidy stage, as at 23 October 2020

Value of payment	Number of payments	Total value of payments	Average payment in category
\$1 million or less	440,661	\$8,761,404,360	\$19,882
\$1 million to \$10 million	684	\$1,480,626,677	\$2,164,659
\$10 million to \$20 million	15	\$195,688,908	\$13,045,927
\$20 million plus	14	\$510,265,982	\$36,447,570
All payments	441,374	\$10,947,985,927	\$24,804

Figure 7
Number and average value of payments for the wage subsidy extension stage, as at 23 October 2020

Value of payment	Number of payments	Total value of payments	Average payment in category
\$1 million or less	208,709	\$2,416,586,189	\$11,579
\$1 million to \$10 million	56	\$116,756,570	\$2,084,939
\$10 million to \$20 million	0	\$0	\$0
\$20 million plus	1	\$35,804,672	\$35,804,672
All payments	208,766	\$2,569,147,430	\$12,306

Figure 8
Number and average value of payments for the resurgence wage subsidy stage, as at 23 October 2020

Value of payment	Number of payments	Total value of payments	Average payment in category
\$1 million or less	84,968	\$301,027,280	\$3,543
\$1 million to \$10 million	3	\$16,355,273	\$5,451,758
\$10 million to \$20 million	0	\$0	\$0
\$20 million plus	0	\$0	\$0
All payments	84,971	\$317,382,554	\$3,735

Source: Our analysis of the Ministry of Social Development's data. See the Appendix for information about the limitations of our analysis.

Notes: Repayments have not been subtracted from the payment information. At each stage of the Scheme, a small number of organisations received the subsidy payment in more than a single payment.

Eligibility was not always clear

- 3.11 In Part 5, we describe the Ministry of Social Development's analysis of the types and locations of businesses that received a subsidy payment and the employees who were supported.
- 3.12 There has been considerable media coverage of, and public interest in, some private organisations that received a subsidy payment. This is particularly so for those that, despite experiencing or projecting a reduction in revenue, have nevertheless paid a dividend to shareholders or otherwise shown financial robustness.
- 3.13 This does not necessarily prevent private organisations from being eligible for the subsidy. We do not audit private organisations, and we have not assessed the eligibility of any private organisation that received a subsidy payment.

- 3.14 In the early stages of the Scheme, there was a lack of clarity about whether certain public organisations were eligible. Government agencies, Crown entities, schools, and tertiary education institutions were generally not eligible. Guidance indicated that a State Sector organisation could seek an exemption to become eligible. Local government organisations were eligible.
- 3.15 More than 200 public organisations applied for a subsidy payment. In total, public organisations were paid nearly \$300 million before any decisions were made to return money.
- 3.16 The largest public organisations that applied had more commercial functions. Cabinet approved their applications on a case-by-case basis. These approvals considered each public organisation's revenue drop and the steps it had taken to manage the impact of Covid-19 on its business. Cabinet gave Television New Zealand, KiwiRail, New Zealand Post, Quotable Value, the New Zealand Artificial Limb Service, and Airways New Zealand access to the subsidy.

Some eligibility criteria might not have been met

- 3.17 The requirement for applicants to have taken active steps to mitigate the impact of Covid-19 on their business was not clearly defined. Some examples were provided – for example, engaging with their bank or drawing on cash reserves. However, these examples were limited, and employers were not required to make a statement about any active steps they had taken to mitigate the impact of Covid-19 on their business.
- 3.18 This requirement is important. It tests whether an applicant needs taxpayer-funded assistance. There is a risk that some applicants who did not meet this requirement received payment.
- 3.19 However, this cannot be determined with any certainty because:
- the definition of the requirement is unclear;
 - applicants did not have to provide corroborative evidence at the time of application; and
 - we could not identify records that described any actions taken to conclusively verify whether this requirement was met.
- 3.20 In our view, if the Ministry of Social Development had required applicants to make a statement about what steps they had taken, they might have been more likely to comply with this requirement. As a result, there would have been information that could have been verified in any assurance work carried out after payment was made.

Recommendation 1

We recommend that, when public organisations are developing and implementing crisis-support initiatives that approve payments based on “high-trust”, they ensure that criteria are sufficiently clear and complete to allow applicant information to be adequately verified.

- 3.21 In our view, this is especially important when high-trust approaches are being used because it is primarily applicants who assess whether they are eligible and not officials.
- 3.22 Inland Revenue told us that it has followed this recommendation when implementing the Small Business Cashflow Scheme.

Payments were generally well managed

- 3.23 The main system the Ministry of Social Development had in place to support and record the processing of applications was its Emergency Employment Support system.
- 3.24 Some automated checking and warning messages were built into the Emergency Employment Support system. Users of the Emergency Employment Support system could record the checks they carried out before approving an application, using a free-text field and drop-down boxes.
- 3.25 Payments were restricted to the levels outlined in the Scheme’s policy – \$585.80 each week for a full-time employee and \$350.00 each week for a part-time employee. An employee with the necessary delegation and who had not processed the application would sign off on a batch of payments. Ministry of Social Development staff doing post-payment assurance work could not work on applications they had originally approved.
- 3.26 Only staff with administrator access could change the applicant’s bank account details obtained when they applied. The Ministry of Social Development’s work included checking for any payments against bank accounts of its staff. That work did not identify any fraudulent payments to Ministry staff.
- 3.27 Although these processes worked well overall, there were some areas for improvement. The Emergency Employment Support system permitted staff to record information about pre-payment checks, but this was not always done or done consistently. Although we saw records that indicate the Ministry of Social Development generally checked Inland Revenue Department numbers (IRD numbers), it did not always record the specific employee IRD numbers it checked.

However, Inland Revenue told us that it kept a record of which customers the Ministry asked about.

- 3.28 The Ministry of Social Development used existing financial delegations for approval of applications and authorising payments. As part of the 2019/20 annual audit of the Ministry, our appointed auditor recommended that the Ministry consider tightening delegation arrangements in any future stage of the Scheme. Initially, a cap limited subsidy payments to \$150,000. When the cap was lifted, applications from employers with more than 80 employees were subject to pre-payment checks that were completed by the Ministry's integrity staff.

It is not clear whether applicants fully understood their obligations

- 3.29 Once the Scheme had begun, the Ministry of Social Development, Inland Revenue, and the Ministry of Business, Innovation and Employment all had information about it on their websites and social media. There was also information on the Government's Covid-19 website. Although there was a lot of information available, there was no single place to get definitive information about the Scheme.
- 3.30 It appears that, on balance, having information about the Scheme on multiple websites was considered more appropriate for these circumstances than a single website. We were told that the risk of detracting from important health information on the Government's Covid-19 website was also a reason for not putting all information about the Scheme on that site.
- 3.31 Although each public organisation involved in the Scheme used its existing communications channels and approaches, all of them worked together to prepare the communications. We were told about some small inconsistencies in the information available on different websites about the purpose of the Scheme and employment-related expectations. These were later corrected. Public organisations did regularly meet to discuss common queries received about the Scheme and queries received from the same organisations.
- 3.32 There were also some challenges communicating the requirement to comply with employment law and the eligibility criteria. Stakeholders we spoke with felt that communications about the purpose of the Scheme could have been clearer and more focused on the main objective of keeping people employed. Others believed that some of the advice on websites conflicted with employment law and that specific employment-relations information about the Scheme should have featured more prominently on the websites. The Ministry of Business, Innovation and Employment told us that there were improvements to the employment information on Employment New Zealand's website during the Scheme.

- 3.33 The Ministry of Social Development also assessed that its communication about the Scheme was not completely effective. In late July 2020, the Ministry of Social Development told its leadership team that:
- Enquiries from applicants and early auditing showed that many applicants had not fully understood the criteria when they applied, particularly as the Wage Subsidy kept changing, and the interplay between the different stages of the Wage Subsidy was not straight-forward.*
- 3.34 We understand that the Ministry of Social Development sought to improve its communications during the life of the Scheme using this type of feedback.
- 3.35 Information in the declaration form was the main way possible enforcement action was communicated to applicants. The information included the possibility of applicants being required to repay the subsidy payment. Subsequently, additional information about reviews and enforcement has been added to the Ministry of Social Development's website.
- 3.36 Although the declaration form was relatively clear, it was lengthy and contained a lot of information. It also changed between the different stages of the Scheme.
- 3.37 There is a risk that some applicants did not fully read the form or did not fully understand the obligations. Many applicants agreed to the declaration at a time of uncertainty and stress (unrelated to the Ministry of Social Development's actions). The declaration was read out to some applicants over the phone, who agreed to it verbally.
- 3.38 We were told that it would have been helpful to have had clearer information before people applied about:
- how and when to repay the subsidy payment and what would trigger a repayment; and
 - the criteria for repaying the subsidy payment, such as when a business had nearly but not fully reached the revenue drop threshold or had genuinely forecast a revenue drop that did not eventuate.
- 3.39 We agree that more clarity on when repayments were required could have been helpful given the continually changing situation many applicants were in. The speed at which the Scheme was implemented meant that the repayment processes were not in place when the Scheme was launched. However, they were put in place during the Scheme's first week.
- 3.40 The Ministry of Business, Innovation and Employment told us that it has recently improved and streamlined its website information about the Scheme. Given it is possible that further stages of the Scheme will be implemented, we encourage

public organisations involved in the Scheme to review their communications to ensure that they are consistent and adequate to assist applicants to fully understand their obligations.

A process to manage repayments was established quickly

- 3.41 The Ministry of Social Development received its first query about repaying a subsidy payment on the second day of the Scheme going live. It received its first repayment on 25 March 2020, just over a week after it had made the first payment. The Ministry had not anticipated such early repayments. It quickly set up a facility to receive payments.
- 3.42 The Ministry of Social Development subsequently prepared standard letters to send to applicants after reviewing their application. Those letters have a clear statement about the conclusion of the review and the implications for repayment.
- 3.43 The Ministry of Social Development believes that media coverage, the published list of some recipients, and advice from third parties such as business advisors have all influenced people ineligible for subsidy payments to voluntarily repay.
- 3.44 As at 5 March 2021, the Ministry of Social Development received 20,973 repayments valued at \$726.2 million. This is about 5% of the value of payments made to that date. About \$703 million of the repayments were voluntary.

Protecting the integrity of the Wage Subsidy Scheme

- 4.1 In this Part, we discuss:
- good practice for preventing, detecting, and managing fraud and abuse in emergencies;
 - pre-payment verification of information before subsidy payments were made;
 - the processes relied on to protect the integrity of the Scheme after payments were made;
 - the reliability of post-payment processes;
 - improvements made to protect the integrity of the Scheme while it was operating; and
 - public organisations working together to prioritise reviews, investigations, and enforcement.

Summary of findings

- 4.2 Many of the steps public organisations took to protect the Scheme's integrity were consistent with good practice guidance for emergency situations.
- 4.3 The pre-payment verification steps to prevent payment of the subsidy to ineligible people or businesses were generally robust.
- 4.4 Post-payment processes to protect the integrity of the Scheme included using the declaration in the application, publishing some recipients' names on the Ministry of Social Development's website, following up on complaints about subsidy payments, and review and investigation work. Publishing some recipients' names appears to have been effective for incentivising post-payment compliance.
- 4.5 Most of the post-payment reviews involved phone conversations with people who received the subsidy payment. How accurately those conversations reflect the recipient's actual situation – for example, as recorded in their business accounts – is unknown. In our view, the reliability of those reviews should be tested against additional evidence.
- 4.6 Some post-payment review and investigation work has identified instances of abuse of the Scheme. At the time of our audit, the Ministry of Social Development anticipated a number of prosecutions, but none had yet entered the court system.
- 4.7 The Ministry of Social Development proactively commissioned an independent review to help identify risks of fraud and error and assess the arrangements it had in place for preventing, detecting, and responding to those risks. After the review, the Ministry made improvements to how it was managing the Scheme. This is a good example of real-time continuous improvement.

Good practice for preventing, detecting, and managing fraud in emergencies

- 4.8 We looked at the work of the International Public Sector Fraud Forum² and work carried out by other audit offices for good practice information on how a public organisation should manage the risks of fraud for taxpayer-funded crisis support.
- 4.9 From these, we identified the principles, measures, and techniques that would be appropriate for a public organisation to use to prevent, detect, and recover from fraud of the Scheme. These are outlined in Figure 9.
- 4.10 We consider these to be examples of good practice. They involve less scrutiny of applicants at the initial stages of a crisis-support initiative, given the need for speed. They also involve greater scrutiny of recipients after they have received that support, compared with practice in more normal times.
- 4.11 Figure 9 shows that high-trust approaches to emergency situations are inherently at high risk of fraud.
- 4.12 In the interests of getting funding quickly to affected people, this heightened risk will need to be tolerated to some degree. In these situations, “rapid implementation may require a different risk appetite and treatments to those adopted in more normal times”.³
- 4.13 It is important to establish the “risk appetite” (that is, the level of risk a public organisation is willing to accept) early. Without clarity on the risk appetite, it is difficult to make informed decisions about the scale and scope of the pre- and post-payment protections to put in place.
- 4.14 Although there was some discussion of the risk associated with the high-trust approach to the Scheme in Cabinet papers and the official documentation available to us, we did not see any information that suggested the risk appetite and thresholds for the Scheme had been clearly defined. Additional clarity might have further informed the design of, and decisions about, the post-payment assurance checks critical to the integrity of the Scheme. We accept that in these circumstances this would have been challenging, and the early advice to Ministers about different delivery options, in effect, explored different levels of risk.

2 International Public Sector Fraud Forum (2020), *Fraud in Emergency Management and Recovery Principles for Effective Fraud Control*.

3 Australian National Audit Office (2020), *Rapid implementation of Australian Government initiatives*, page 3, at www.anao.gov.au.

Figure 9
Fraud control principles, measures, and techniques for emergency situations

Principles of fraud control	Counter-fraud measures	Techniques to use
Accept that there is an inherently high risk of fraud and that it is very likely to happen.	Accept that it is necessary to tolerate some degree of fraud given the priority of quickly getting funding to affected people.	Record risk appetite.
Integrate fraud control resources (personnel) into the policy and process design to build awareness of fraud risks.	Build a fraud risk assessment. Highlight that there will be assurance checking after the event.	Protective clauses such as claw-back clauses.* Data sharing for verification.* Working with stakeholders to share information.* Publication of warnings.*
The business and fraud control should work together to implement low-friction counter-measures to prevent fraud risk where possible.	Use existing systems and criteria for payments where possible. Work with well-established, tried, and tested partners where possible. Make sure payments are processed by limited staff with appropriate oversight. Train staff to identify and report fraud.	Hotline or portals for people to share concerns or allegations.* Availability of information about recipients of payments.* Real-time monitoring and reporting of performance.* Segregation of staff duties.*
Carry out targeted assurance after the event to look for fraud, ensuring access to fraud investigation resource.	Collect and retain records of payments and services delivered. Consider the fraud risk assessment and perform timely review of a sample of payments. Resource investigations into potential fraud or corruption with experienced fraud investigators.	Post-payment risk profiling and data analytics.* Follow-up communication with recipients, including with information on how to pay back funds.**
Be mindful of the shift from emergency payments into longer-term services and revisit the control framework – especially where large sums are invested.	Reconsider fraud risk. Consider any lessons learned about fraud and how it was controlled.	Review and evaluation.**

* Some aspects of these techniques were implemented during implementation of the Scheme.

** We have recommended that public organisations use these techniques.

Source: International Public Sector Fraud Forum (2020), *Fraud in Emergency Management and Recovery Principles for Effective Fraud Control* and our own understanding of good risk-management techniques.

Some pre-payment steps were taken to reduce the risks of fraud

- 4.15 Before approving an application and making payment, the Ministry of Social Development checked and verified some information that applicants provided against information that Inland Revenue held. These checks included that the applicant had a valid IRD number and that the number of employees applied for in each application matched Inland Revenue's information.
- 4.16 Initially, the information verification process was manual. Ministry of Social Development staff had to phone or email Inland Revenue staff. A portal was eventually set up for Ministry staff to access relevant Inland Revenue information without needing to contact an Inland Revenue staff member directly.
- 4.17 Authority for the information sharing was initially through the Civil Defence National Emergencies (Information Sharing) Code 2013 and later through the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020, supported by a Memorandum of Understanding between the Ministry of Social Development and Inland Revenue.
- 4.18 Parts of the Act had retrospective effect from the date of announcement of the relevant Cabinet decision about the Scheme on 17 March 2020.
- 4.19 The Ministry of Social Development introduced additional pre-payment reviews for selected applications over time. This was because it learned from the behaviour of applicants during the first stage of the Scheme and used that to inform risk-based work in the Scheme's subsequent stages.
- 4.20 Fraud and integrity staff with specialist skills carried out these reviews. Pre-payment reviews for applications from employers with 80 or more employees started on 30 March 2020. This was because of the risk associated with the higher value of applications from large employers.
- 4.21 The pre-payment review involved a phone conversation to confirm, based on criteria and obligations, that the employer was eligible for the subsidy payment. Staff were prompted to ask applicants about other steps they had taken to mitigate the effects of Covid-19 on their business. However, staff did not have detailed guidance about this and did not consistently record the information they were given in relation to the application. The Ministry of Social Development told us that it intended to strengthen processes for integrity reviews carried out for the March 2021 stage of the Scheme. Our appointed auditor will be following up on this as part of our 2021/22 annual audit of the Ministry. The Ministry has now updated the declaration to include a requirement that applicants must prepare and retain information as part of the application process.

- 4.22 Applications for the wage subsidy extension and the resurgence wage subsidy that had certain risk indicators were also reviewed before payment.
- 4.23 Pre-payment reviews for organisations with 80 employees or more became easier to carry out once data matching with Inland Revenue was more automated, and Ministry of Social Development staff had access to Inland Revenue’s information through a secure portal. As at 18 September 2020, the Ministry of Social Development had completed 1789 of these pre-payment reviews.
- 4.24 Other risk factors that triggered a pre-payment review for the wage subsidy extension and the resurgence wage subsidy included:
- multiple applications from the same employer;
 - businesses where there was a current allegation or investigation about subsidy payments;
 - sole traders declaring that they received a benefit;
 - applicants that had previously fully repaid a subsidy payment; and
 - applications where Inland Revenue had flagged an integrity issue with the original wage subsidy.
- 4.25 In our view, these were appropriate risks to target in the circumstances.
- 4.26 Aside from checking applicants’ information against Inland Revenue’s information and other publicly available information, the pre-payment review largely involved calling applicants by phone to discuss the application. In most cases, this involved limited or no documentary checks on supporting information. Figure 10 (at the end of this Part) provides information about the number and results of the pre-payment reviews.

Some applications were declined after pre-payment reviews

- 4.27 It is clear that pre-payment reviews helped to prevent subsidy payments to some employers who were not eligible or who had not met their obligations for previous subsidy applications. As at 23 October 2020, 48,718 applications for the original wage subsidy (about 10%), 65,389 applications for the wage subsidy extension (about 24%), and about 18,000 applications for the resurgence wage subsidy (about 17%) had been declined. These total just over 132,000 declines.
- 4.28 The reasons an application was declined included:
- an application made after the Scheme ended;
 - an application made by an employee rather than an employer;
 - a government organisation not being eligible;

- applicants not able to be contacted to confirm information;
- duplicate applications; and
- information provided with the application not matching Inland Revenue's information.

4.29 We attempted to further analyse the reasons for declining applications from different types of applicants. Although the Ministry of Social Development provided us with information about declined applications, it was not adequate for us to carry out the analysis we wanted. However, the information did show that many of the declined applications were from sole traders.

4.30 Many applications from sole traders were declined in early June 2020 and during August 2020. This was because Inland Revenue's information did not show them as a current self-employed business. Inland Revenue told us that it has made changes to its systems for future stages of the Scheme. Those changes will require more manual verification of sole traders' information and sole traders to prove their self-employment status when applying for subsidy payments.

4.31 The Ministry of Social Development did not have the resources to investigate all these applications to find out why their details did not match Inland Revenue's information. Instead, the Ministry declined the applications and asked the applicants to update their details with Inland Revenue and reapply. We were told that most applicants did not reapply.

4.32 The Ministry of Social Development provided us with information, dated 23 October 2020, that shows nearly three-quarters of the declined applications for the original wage subsidy and for the wage subsidy extension were from sole traders. Nearly two-thirds of the declined applications for the resurgence wage subsidy were from sole traders. Slightly more than half (53%) of all payments made in the three stages were to sole traders.

4.33 In our view, declining applications from sole traders and encouraging them to update their details with Inland Revenue and reapply was a practical decision in the circumstances. In our view, this approach did not prevent legitimate applicants from accessing support from the Scheme.

Post-payment processes to identify fraud and abuse

4.34 The public organisations involved in administering the Scheme also identified post-payment integrity risks. The main identified risks were:

- applicants receiving subsidy payments without meeting the eligibility criteria;
- employers not passing the subsidy payment on to employees;

- applicants being overpaid;
- the subsidy payment being mistakenly paid to incorrect bank accounts; and
- recipients of subsidy payments not meeting their tax obligations.

4.35 In our view, these were appropriate risks to identify given that, if they were to occur, public funds would have been used for purposes that were inconsistent with the Scheme.

4.36 Processes to mitigate and manage risks after payment included:

- a complaints mechanism;
- publishing recipients' names;
- using a declaration form;
- reviews and investigations;
- inclusion of subsidy payments on the 2021 IR3 Income Tax Return; and
- prosecution.

The complaints process was an important integrity measure

4.37 The process that allowed the public to make complaints about employers receiving subsidy payments was an important integrity measure. The Ministry of Business, Innovation and Employment made a complaints form available online for people to submit complaints.

4.38 The Ministry of Social Development, Inland Revenue, and the Ministry of Business, Innovation and Employment all had systems and processes to receive and consider complaints. Although it was the Ministry of Business, Innovation and Employment's role to co-ordinate complaints, all these organisations received complaints individually and, where necessary, forwarded them on to the appropriate organisation.

4.39 The Ministry of Social Development dealt with complaints about eligibility. Inland Revenue dealt with complaints about tax. The Ministry of Business, Innovation and Employment dealt with complaints about employment standards and related issues.

4.40 Some of the complaints that were managed by the Ministry of Business, Innovation and Employment were:

- sent to the Ministry of Business, Innovation and Employment's dispute resolution team for a mediated approach (this did not mean a full formal mediation but a resolution that followed a similar method);
- discussed with the employer by Ministry of Business, Innovation and Employment staff, with the complainant's permission;
- the subject of a more general discussion with a large company by a senior staff

member (the rationale for this approach was that multiple issues could be resolved at once); or

- moved to investigation if the complaint was more about compliance with minimum employment standards.

- 4.41 Figure 10 (at the end of this Part) provides information about the number and results of the complaints work. The number of complaints is a very small proportion of the number of employers and employees who received subsidy payments (about 12,000 complaints out of an estimated 1.8 million employees who received wage subsidy support through their employer, less than 1%).
- 4.42 The types of complaints that the Ministry of Social Development, Inland Revenue, and the Ministry of Business, Innovation and Employment received included:
- employers making applications based on employees' contracted hours rather than the hours the employees were actually working and perhaps not applying for the correct payment amount;
 - employers applying for the subsidy payment but not paying employees; and
 - issues with some organisations not applying for the subsidy payment (it was not compulsory for businesses to apply).
- 4.43 Complaints also included issues of employment practice that were not directly related to the Scheme but that took place when an organisation was accessing the subsidy payment. These included:
- employment being terminated without following the correct procedure, as set out in individual employment agreements or minimum standards; and
 - employment being terminated and then the same jobs being offered back at reduced hours and, in some cases, at a lower hourly rate.
- 4.44 As a first step in responding to these complaints, the Ministry of Business, Innovation and Employment spoke with the complainant and the employer concerned. If the complaint could not be resolved through a few phone calls, the staff member would explain possible next steps the complainant could take, such as lodging a personal grievance or seeking formal mediation.
- 4.45 If the complaint raised an issue related to employment standards, this was recorded so it could be followed up later as part of the Ministry of Business, Innovation and Employment's business-as-usual work. Where possible, the Ministry of Business, Innovation and Employment took an educational approach to help employers understand their responsibilities and obligations. Its view was that most of the complaints were resolvable between parties without compliance action.
- 4.46 However, we were told about some concerns with the complaints process. Some stakeholders felt that there was a lack of transparency. We also heard about

inconsistencies between the complaints investigation process and the published process for complaints.

Publishing recipients' names led to an increase in complaints

- 4.47 From 6 April 2020, the Ministry of Social Development published on its website the names of some employers who had received a subsidy payment. People could search for an employer's name. If that employer received a subsidy payment, the system displayed the amount that had been paid. If an applicant fully repaid the subsidy payment they had received, their name was removed from the list of published recipients.
- 4.48 The Ministry of Social Development updated the list of recipients daily. As we noted in paragraph 1.33, part of the declaration that all applicants agreed to was allowing their name to be published if they received a subsidy payment.
- 4.49 Other organisations we spoke with considered publishing recipients' names to be an important factor in supporting accountability and transparency and incentivising compliance. People could access information and then make complaints – for example, when there were concerns about an employer's eligibility or an employer breaching their obligation to pass the subsidy payment to their employees. The number of complaints increased after the Ministry of Social Development began publishing employers' names.
- 4.50 There were some limitations to this approach. For privacy reasons, the names of self-employed applicants and employers with fewer than three employees were not published. Slightly more than half the number of payments in the Scheme were made (by volume) to sole traders. This means that information about more than half of successful applications was not publicly available.
- 4.51 The registered names of businesses, rather than trading names, were published. This might have made it difficult to find a business by its common name. Information about employers receiving the subsidy payment could be accessed only by a targeted search. The full dataset was not available to do analysis across locations and industries. There was also a lack of transparency about how much money had been applied for in a given employee's name.
- 4.52 Publishing a fully accessible list of recipients' names (excluding those that could not be published for privacy reasons), or listing the top 1000 recipients or similar, would have supported even greater transparency. We note that the Ministry of Social Development has subsequently released, under the Official Information Act 1982, the list of recipient names it has published on its website.

Significant reliance has been placed on the applicant declaration

- 4.53 The declaration form that was part of the application was the main way public organisations involved in administering the Scheme encouraged compliance. The Ministry of Social Development's view is that the declaration was an agreement that applicants made as part of applying for a subsidy payment.
- 4.54 Businesses had to confirm in the declaration that they met the application criteria and agreed to comply with a set of associated obligations.
- 4.55 The Ministry of Social Development worked with Crown Law to write the declaration. Various changes were made to it over time to reflect changes to the Scheme and to improve the declaration. Examples include:
- moving from a best endeavours basis for retaining employees (before 4pm on 27 March 2020) to a requirement to retain employees (from 4pm on 27 March 2020) as a condition of receiving the subsidy payment;
 - adding a definition of what ordinary wages and salary are (from 28 March 2020); and
 - adding a requirement for an employer to inform the employees named in the employer's application of the outcome of the application and the conditions that apply to it (from 10 June 2020).
- 4.56 Requiring employers to retain employees as a condition of receiving a subsidy payment should have made that requirement easier to comply with, assess, and enforce. In turn, it should have led to better protection of employees. Requirements that are clearly defined and commonly understood are likely to better incentivise compliance.
- 4.57 Applications could be submitted in person, by mail, or online. To finalise an application online, applicants could confirm by email that they had read and agreed to the declaration.
- 4.58 Some applicants who did not have internet access completed declarations over the phone. This was also the case for those who could not use the internet for some other reason, including because the Ministry of Social Development's website was overloaded.
- 4.59 The Ministry of Social Development does not know the extent to which the full declaration was read out to applicants who agreed to it over the phone.

The reliability of post-payment reviews needs testing

- 4.60 Arguably, the most significant way to manage the integrity of the Scheme was the post-payment review.

- 4.61 The Ministry of Social Development carried out three main types of post-payment reviews. It describes these as:
- random audits;
 - targeted audits (these look at applicants identified as having some risk characteristics); and
 - allegation-generated work (these reviews act on an allegation a member of the public has made).
- 4.62 Figure 10 (at the end of this Part) provides information about the number and results of each type of post-payment review.
- 4.63 We use the terms “reviews” and “review work” to describe the post-payment work. We do not consider that the post-payment work carried out provides the level of assurance we expect of an audit.
- 4.64 This is because the work that was carried out did not routinely involve substantiation of information against a secondary source, such as requesting and reviewing documents to verify information provided verbally.
- 4.65 In our view, it is possible that the post-payment work is less than what Cabinet would have expected when it noted the possibility of the Ministry of Social Development doing post-payment audit work. Similarly, the Ministry’s use of the term “audit” to describe its review work could be misleading. As we were completing this report, the Ministry confirmed that it has changed its terminology and now refers to the work as integrity checks or reviews.
- 4.66 The Ministry of Social Development used the results of the random reviews over time to inform the criteria for targeted reviews. The amount of random reviews reduced as the Ministry learnt more about the actual risks it was observing.
- 4.67 We understand that the Ministry of Social Development does not plan to do any more random reviews. We were told that this is because, to date, that work has identified relatively few issues of concern. Instead, the Ministry has moved towards more targeted integrity checks for high-risk applications.
- 4.68 Review work started with a desktop review. This included checking some of the Ministry of Social Development’s systems and public sources for information about the applicant. Publicly available information might, for example, enable the Ministry to verify that a business was legitimate and operating before Covid-19.
- 4.69 After the desktop review, there were phone conversations with the applicant. Where necessary, staff also spoke to employees and other government agencies. The staff having these discussions had experience in compliance

interviews. They were provided with conversation guides to help them obtain the relevant information.

- 4.70 The reviews did not involve substantive review of documentary evidence, such as financial accounts. Most organisations prepare some form of financial statements. These, or similar supporting information, could have been asked for when an application for the subsidy payment was made (we understand that this was done by the Australian Government for its JobKeeper wage subsidy) or as part of the post-payment review activity.
- 4.71 Not requesting this type of information before or after payment means that there has been no objective validation of an applicant's compliance with the revenue reduction requirement. In our view, an audit should, as a minimum, include verifying the main eligibility criteria against relevant documentary evidence. This should have been done for a sample of applications. Given the significant amount of public money paid and the fact that audit work could be carried out after payment, this is an appropriate step to take.

Recommendation 2

We recommend that, when public organisations are developing and implementing crisis-support initiatives that approve payments based on "high-trust", they put in place robust post-payment verification measures, including risk-based audits against source documentation, to mitigate the risks of using a high-trust approach.

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- 4.72 Inland Revenue told us that it followed this recommendation when implementing the Small Business Cashflow Scheme.

Recommendation 3

In relation to the Wage Subsidy Scheme, we recommend that the Ministry of Social Development test the reliability of a sample of the post-payment assurance work it carried out against documentary evidence held by applicants.

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- 4.73 A review could result in an applicant being requested to repay funds or further investigative work. We are not persuaded that the reviews provide enough confidence that all applications that merit further investigation have been identified. As at 5 March 2021, the Ministry of Social Development had 392 active investigations in progress. A further 464 investigations had been resolved and 161 investigations were yet to start.

Improvements were considered and many were implemented

- 4.74 The Ministry of Social Development commissioned Deloitte to comprehensively and systematically review the integrity risks to the Scheme and how they were being managed and mitigated. In response to Deloitte's May 2020 work, the Ministry made improvements to its integrity work including:
- increasing communications with applicants before and after payment;
 - improving application processes to ensure that the data collected is accurate;
 - putting in place stricter settings for approval by staff processing applications; and
 - having a more targeted review programme based on risk analysis carried out with Inland Revenue.
- 4.75 Because of time constraints, the Ministry of Social Development could make only limited improvements to the Scheme's integrity. The Ministry advised Ministers that it could not implement all of Deloitte's recommendations because its immediate focus was on implementing the wage subsidy extension.
- 4.76 The recommendations that the Ministry of Social Development did not implement were primarily related to improving systems for handling applications from large organisations and automating the internal transfer of payment files.
- 4.77 As part of our 2019/20 annual audit of the Ministry of Social Development, our Appointed Auditor recommended that the Ministry write to recipients of subsidy payments to seek re-confirmation that they complied with the requirements and obligations. This is consistent with one of Deloitte's recommendations to increase communications with recipients. We have also included it as part of Recommendation 4.
- 4.78 Using this type of correspondence is one of the anti-fraud techniques identified as being good practice for emergency situations.

Public organisations should continue to work together to prioritise reviews, investigations, and enforcement

- 4.79 Inland Revenue's review work primarily focused on whether a business existed and whether the information supplied in the application matched the information Inland Revenue held. We were told that it included checks against a variety of information including employee numbers, company registration, shareholder information, and income types.

- 4.80 Inland Revenue's work has also involved looking at whether some applicants' GST on taxable supplies (the supplies that a business uses and claims back the GST on when it purchased those supplies) had reduced for a relevant period. Analysis of this information might help to understand whether certain applicants' revenue declined sufficiently to make them eligible for the subsidy payment.
- 4.81 Ministry of Social Development staff made decisions about what enforcement steps to take, if any, in response to the reviews Inland Revenue carried out. This is because Inland Revenue staff do not have the legal authority to make decisions about enforcement steps for matters unrelated to tax compliance.
- 4.82 Post-payment reviews have led to 1017 cases being referred for investigation as at 5 March 2021. At the time of our audit, the Ministry of Social Development expected that its investigation work was likely to continue for another 12 to 18 months.
- 4.83 The Ministry of Social Development has also indicated that it has more review and assurance work planned. This includes:
- completing the remaining post-payment reviews for the wage subsidy extension and the resurgence wage subsidy;
 - completing allegation reviews for the original wage subsidy;
 - completing targeted reviews of high-risk applications (indicated through allegations, referral from another agency, or by risk indicator); and
 - performing investigations as needed.
- 4.84 Inland Revenue requires self-employed subsidy recipients to report the value of subsidy payments received in their 2021 IR3 Income Tax returns. Inland Revenue has also made supporting information available to those who need to report the wage subsidy they received. Inland Revenue also intends to match subsidy payment data from the Ministry of Social Development with reported subsidy data from self-employed persons to identify potential income under-reporting.
- 4.85 We understand that public organisations' ongoing integrity and prosecution work continues to divert resources from other work. However, in our view, it is important for abuse of the Scheme to be identified and appropriate action taken, including prosecution if necessary.

Prosecutions and civil action are anticipated

- 4.86 There had been no prosecutions when we carried out our audit, but work is under way to support prosecutions.
- 4.87 The Ministry of Social Development expects to take prosecutions for fraud. Inland Revenue will prosecute where it is subsequently found that:

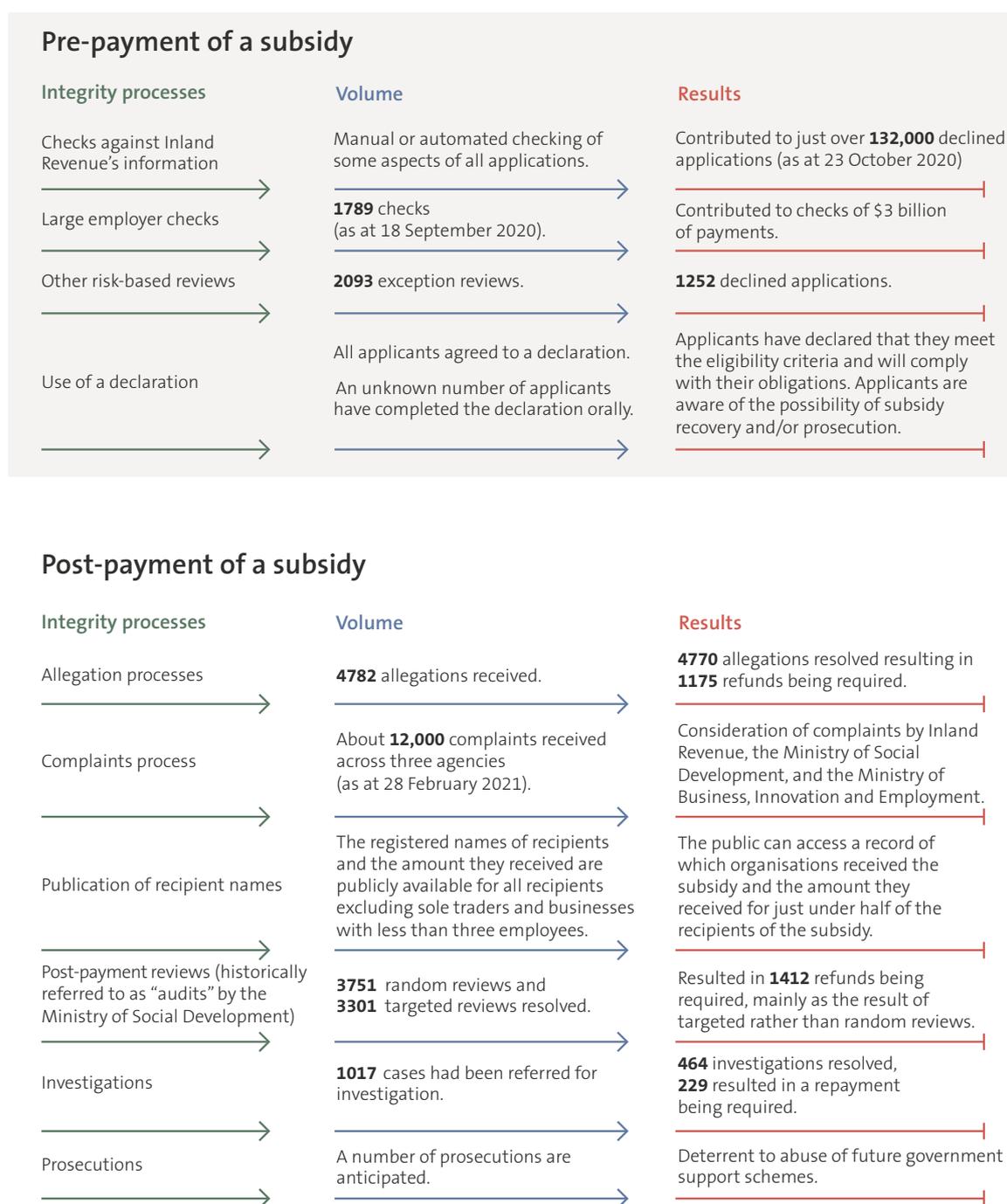
- businesses have claimed subsidy payments and have been found to have significantly under-reported previous income and/or have failed to correctly report and account for wages paid to employees, PAYE, and other deductions;
 - businesses that since receiving subsidy payments have failed to file employment information or GST returns and not contacted Inland Revenue and advised the reasons for this; and
 - self-employed people who have received subsidy payments and have not reported this as income.
- 4.88 Inland Revenue and the Ministry of Business, Innovation and Employment can use their normal enforcement powers for prosecutions for tax issues and employment, respectively.
- 4.89 The Ministry of Social Development can request information from recipients in accordance with consents given under the declaration, or apply to the New Zealand Police for production orders under the Search and Surveillance Act 2012. The Ministry anticipates using a combination of prosecution (under the Crimes Act 1961), recovery through a civil claim, and restraint and/or forfeiture pursuant to the Criminal Proceeds (Recovery) Act 2009 to support its enforcement work.
- 4.90 In our view, effective prosecutions where there is evidence of fraud or abuse are critically important to maintaining trust and confidence in the Scheme. This work needs to be adequately resourced and prioritised.

Recommendation 4

In relation to the Wage Subsidy Scheme, we recommend that the Ministry of Social Development prioritise remaining enforcement work, including:

- seeking written confirmation from applicants (which could be targeted towards larger or risk-indicated applicants) of compliance with the eligibility criteria and the obligations of receiving the subsidy; and
 - pursuing prosecutions to recover funds and/or to hold businesses to account for potentially unlawful behaviour.
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Figure 10
Pre-payment and post-payment integrity processes and their results



Source: Based on Ministry of Social Development information provided to the Office of the Auditor-General.
Note: Figures are as at 5 March 2021, unless otherwise stated.

Oversight, monitoring, and review of the Wage Subsidy Scheme

- 5.1 In this Part, we discuss:
- the governance, monitoring, and oversight of the Scheme;
 - some of the evaluation activities that were carried out after the Scheme was implemented; and
 - information that has been gathered to date about the impact of the Scheme, including some unintended consequences.

Summary of findings

- 5.2 The public organisations responsible for developing and administering the Scheme largely relied on existing management and governance arrangements for oversight of their work on the Scheme. This does not appear to have been a problem. Overall, the Scheme was established quickly. Payments were managed well and the public organisations took some steps to improve their processes. However, as we have noted, more attention could have been given to the post-payment integrity process.
- 5.3 There have been some unintended consequences of the Scheme. Issues have been raised about the way the Scheme interacted with various aspects of employment law. These were of a scale and variety that was unforeseen. There is an opportunity to learn from this to inform guidance for employers and employees for any future schemes.
- 5.4 In our view, given the significant amount of spending associated with the Scheme, and the likelihood that this approach could be used again in the future, it is important to complete a comprehensive evaluation of the Scheme in a timely manner.

Public organisations largely relied on existing management and oversight arrangements

- 5.5 The public organisations involved in administering the Scheme worked closely together and with Ministers to develop and implement it. These arrangements appear to have been effective in the circumstances.
- 5.6 Public organisations largely relied on existing internal management and leadership accountabilities to control and guide their work on the Scheme. Some organisations (for example, the Treasury and Inland Revenue) set up specific internal groups with Covid-19 or Wage Subsidy co-ordination and advice responsibilities. The Ministry of Social Development's leadership team met regularly (sometimes daily) during the development and implementation of the Scheme. The Ministry's Service Delivery leadership team met daily during

the development and implementation of the Scheme. The Ministry of Business, Innovation and Employment's Deputy Chief Executives met regularly to discuss policy, design, and operation of the Scheme.

- 5.7 There were weekly cross-agency meetings between relevant agencies about complaints, queries, policy development, and operation of the Scheme.
- 5.8 Public organisations also relied on frequent informal communications across agencies at all levels, as well as formal engagement with the Economic Advisory Group during development of the Scheme. This is a group of officials overseeing the economic impact of Covid-19.

A full and timely evaluation is needed

- 5.9 The Ministry of Social Development published information on its website about the Scheme with intermittent updates on how many applications there were. It also published information about the concentration of payments in various industries and estimates of the number of employers and employees the Scheme had supported.
- 5.10 The Ministry of Social Development also looked at the number and proportion of jobs the Scheme supported. This data was broken down by age, gender, ethnicity, industry, and region. It published the results of that work on its website.
- 5.11 The Ministry of Social Development commissioned a survey of businesses that had received a subsidy payment to understand its impact and inform future policy. Participants in the survey were largely representative of the businesses that received the subsidy payment. The Ministry published the survey results on its website. The main findings from the survey were:
- 79% of respondents said they benefited a lot from the subsidy payment; and
 - 89% said the subsidy payment meant they could keep operating for the foreseeable future at the time of the survey.
- 5.12 However, the survey did not include businesses that chose not to apply for the subsidy payment, businesses that wanted to apply but were not eligible, or employees of businesses that did and did not receive the subsidy payment.
- 5.13 The Treasury reported on the impact and performance of the Scheme to the Minister of Finance. Its early advice stated:

[The subsidy] has been well suited to the sudden and temporary nature of the COVID-19 shock, is likely to have reduced economic scarring and will facilitate a more rapid economic restart once the disruption is over ...

Evidence available indicates that the wage subsidy has supported employment attachment and worker incomes and preserved jobs during severe public health restrictions and enabled a rapid economic restart once Alert Levels were lowered.

- 5.14 The evidence that the Treasury was referring to was its modelling of unemployment, the movement in real-time economic indicators across lockdowns, analysis of changes in worker incomes, comparisons with overseas experiences, and qualitative feedback from employers and business groups. The analysis showed that, without the Scheme, 100,000 more people would have become unemployed in the second quarter of the 2020 calendar year.
- 5.15 The public organisations involved in administering the Scheme are jointly exploring how to evaluate aspects of the Scheme. When we carried out our audit, it was yet to be determined which organisation or organisations would own, lead, and fund this work.
- 5.16 We understand that this planned evaluation intends to look at the longer-term impact of the Scheme on employment. In our view, the evaluation should look at the development, operation, and wider effects of the Scheme.
- 5.17 It is important that comprehensive evaluation work be carried out so that the effects of the Scheme are better understood, and a view can be formed on the effectiveness and value for money of this kind of policy response. In our view, this evaluation work should be prioritised and carried out in a timely way.
- 5.18 However, performing this evaluation should not prevent public organisations from making improvements based on the lessons learned so far. It would be regrettable if there was another stage of the Scheme implemented without those lessons to inform improvements to post-payment reviews and enforcement actions.

Recommendation 5

We recommend that the Ministry of Social Development, the Inland Revenue Department, the Ministry of Business, Innovation and Employment, and the Treasury carry out timely evaluation of the development, operation, and impact of the Wage Subsidy Scheme and use the findings to inform preparation for future crisis-support schemes.

- 5.19 At the time of finalising our report, we were told that the Ministry of Social Development, Inland Revenue, the Ministry of Business, Innovation and Employment, and the Treasury were in discussions about proposed evaluation work.

The Wage Subsidy Scheme's unintended consequences

Some recipients received payments more than their normal income

- 5.20 Self-employed people received a subsidy payment as if they were an employer. They could initially keep the full amount of the subsidy, even if their usual income was less than what was paid to them. The effect was that some self-employed people had their income increased for the period of the Scheme.
- 5.21 There were administrative amendments to the Scheme to address this issue. In the wage subsidy extension, there was an obligation in the declaration for self-employed people to repay any surplus arising from the difference between their usual income and the subsidy payment.
- 5.22 Employers with several part-time employees who usually earned below the fixed part-time subsidy rate of \$350 each week could have potentially ended up with a surplus from the subsidy payment. These employers were expected to pay the money back if they had no other employees who they could pass it on to. This was an explicit requirement in the declaration for the wage subsidy extension.

Implementing the Scheme revealed some problems with employment practices

- 5.23 In early May 2020, advice was prepared for the Ministers of Finance, Social Development, and Workplace Relations and Safety about how the Scheme interacted with aspects of employment law. There were a range of largely unforeseen issues, although we understand that some stakeholders raised concerns early.
- 5.24 Employers who applied for subsidy payments were still required to meet their employment law obligations. Stakeholders, employers, and employees questioned how aspects of those obligations were affected by the Scheme. There were also many complaints about employers' compliance with their employment law obligations or with the obligations of receiving the subsidy payment.
- 5.25 The Ministry of Business, Innovation and Employment sought legal advice about some of the employment matters that arose. These matters included whether employers could make employees take annual leave while the employer was receiving a subsidy payment during Alert Level 4 – Lockdown.
- 5.26 Other employment issues raised during the Scheme included:
- questions about whether, and what type of, consultation was needed to meet good-faith expectations before any changes were made to employment agreements (such as to remuneration and hours worked) during Covid-19;

- lack of clarity about minimum wage requirements for people unable to work or unable to work their usual hours. There was confusion about how to define “usual hours” for the purposes of the subsidy payment. The minimum wage was increased during the Scheme, further complicating these issues; and
- questions about whether casual workers were eligible for the subsidy payment and some concern that employers were not making applications for these workers.

- 5.27 To some extent, these issues reflected the complexity and variation in understanding of employment law before the Scheme was implemented. Some of the issues that have arisen during the Scheme have been the subject of cases before the Employment Relations Authority and the Employment Court.
- 5.28 The Ministry of Business, Innovation and Employment told us that it is committed to updating its publicly available information based on the outcomes of complaints and Employment Court cases about the Scheme.
- 5.29 Forming a view on the appropriateness of the legal positions the Ministry of Business, Innovation and Employment took is not our role. However, we consider that, by seeking legal advice, the Ministry of Business, Innovation and Employment took reasonable steps to address the identified issues.
- 5.30 We encourage the Ministry of Business, Innovation and Employment to reflect on what the identified issues mean for its educational work with employers. We also suggest that it consider the implications for any future stages of the Scheme or other subsidy schemes. This will help public organisations be better prepared for the complex employment issues that could likely arise in any future subsidy scheme. The Ministry of Business, Innovation and Employment has confirmed that it has already made changes to its guidance and complaints processes and will review its guidance in line with any precedents set in the Employment Court.

Appendix

Scope and limitations of our work

We did not audit any of the private organisations that received subsidy payments. Whether those organisations accessed and used the Scheme lawfully and whether their circumstances were consistent with the declarations they made is not within our statutory mandate to audit.

Our work focused on the extent to which the public organisations involved in administering the Scheme were aware of the risks of fraud or error, and the actions they took to manage those risks through prevention, detection, and recovery work.

We did not examine the merits of the policy decision Cabinet made to have a subsidy or to take a high-trust approach because we do not comment on government policy. Our work was limited to the implementation of the Scheme. We have excluded other forms of government support in response to Covid-19, such as the Leave Support Scheme, from this work. We have not performed a detailed assessment of compliance with privacy and information technology security requirements as part of our work looking at implementation of the Scheme.

Some of our work relied on datasets provided by the Ministry of Social Development at different points in time. We carried out a quality assessment of these datasets. We sought explanations from the Ministry of Social Development for a small number of data quality issues, which we identified across these datasets. Based on our discussions with the Ministry, we decided to accept the data as it is because these issues were not material to the overall situation described by the data in our report or our use of the data at an aggregate level.

We decided that the additional data analysis that would be required to make more informed decisions about the inclusion or exclusion of individual records in our analysis was not needed in the circumstances. Therefore, the information in this report is based on raw data from the Ministry of Social Development and is the same type of information that the Ministry has used in its public reporting about the Scheme. The information we provide is specific to given points in time, as we have noted alongside the information.

To perform our work, we:

- obtained and reviewed the relevant Cabinet and departmental briefings, advice, and decision-making documents;
- obtained and reviewed the main policy procedure and protocol documents about managing the Scheme;
- obtained and reviewed management and governance documents about the performance and review of the Scheme;
- spoke with staff in the Ministry of Social Development, Inland Revenue, the Ministry of Business, Innovation and Employment, and the Treasury;
- observed some of the business systems the Ministry of Social Development used;
- spoke with representatives of non-government organisations involved in providing advice and/or support to their members in relation to the Scheme;
- obtained and reviewed data and analysis about payments, repayments, and declined applications, complaints, and reviews and investigations of recipients of subsidy payments;
- carried out a quality analysis of the payments, repayments, and declined applications datasets, discussed that analysis with the Ministry of Social Development, and used those discussions to inform our analysis of that data; and
- obtained and reviewed the work of the International Public Sector Fraud Forum and various documents about good practice in managing fraud and abuse in crisis situations.

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