

2 June 2026

AISA consultation policy team  
Ministry of Social Development  
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Tēnā koutou

### **Proposed amendments to Inland Revenue-MSD AISA — use of PAYE data**

1. The New Zealand Law Society Te Kāhui Ture o Aotearoa (**Law Society**) welcomes the opportunity to comment on proposed amendments to the Approved Information Sharing Agreement (**AISA**) between Inland Revenue (**IR**) and the Ministry of Social Development (**MSD**). The following response has been prepared with assistance from the Law Society's Human Rights and Privacy Committee, and focuses predominantly on the implications of the proposal for procedural fairness.

#### **Removal of the notice period – procedural fairness and NZBORA concerns**

2. As explained in the consultation document, the proposal is that the AISA between IR and MSD be amended to waive the requirement for MSD to provide 10 working days' notice (the notice period requirement) for a client to dispute the accuracy of their personal information, when an adverse action (such as a client's benefit being reduced or stopped) is based on shared information from IRD.
3. The proposal to remove the 10-working day notice period prior to adverse action represents a significant change to the operation of the current framework. Under the current model, individuals have an opportunity to correct or challenge information before adverse action is taken. Under the proposed model, individuals may instead experience the consequences of a potentially incorrect decision and must then seek to have it remedied.
4. In the Law Society's view, the notice period performs an important procedural function. It enables individuals to understand and respond to information held about them before decisions affecting their entitlements are made. Its removal shifts the system from one in which individuals can participate in decision-making affecting their rights, to one in which decisions are made first and may be challenged only after the fact.
5. In our view, this raises issues of consistency with principles of natural justice and, more broadly, the right to observance of the principles of natural justice affirmed in section 27(1) of NZBORA. In particular, the change alters the balance between efficiency and fairness by removing a pre-decision safeguard without clearly replacing its protective function.

6. The notice period, though presumably in place to allow an individual to request timely correction of personal information, appears here to also provide the only opportunity to comment on a proposed adverse decision. The proposed amendments remove this opportunity, and the consultation document does not indicate that process amendments will be made elsewhere to ensure procedural fairness is still observed.<sup>1</sup>

### Reliance on administrative data, risk of error, and safeguards

7. The proposed amendments substantially increase reliance on administrative PAYE data as the basis for determining entitlements, combined with real-time or near real-time decision-making.
8. We acknowledge this will improve accuracy in many cases and that in addition to facilitating automation, the proposed amendments are intended to prevent the establishment of client debt. However, such data is not infallible. It may be delayed, incomplete, or subject to correction (the reasons for which may vary, including errors at the source of income). The removal of pre-decision safeguards means that any errors in that data will directly affect individuals' entitlements before they have an opportunity to respond.
9. When combined with automation and scale, even low error rates have the potential to produce widespread impact. The consequences of error will be borne immediately by individuals who rely on these payments for basic needs.
10. The safeguards proposed by MSD do not address this. Rather than responding to a notice and advising MSD that the proposed adverse action is based on incorrect information, in the absence of a bespoke challenge process, the client will be required to proceed through the review of decision process. This materially increases the burden on the client and the length of time for which they may be subject to an incorrectly determined adverse action (i.e., a reduced or no benefit). As the Law Society has raised in previous submissions,<sup>2</sup> the timeliness of both the internal review and Benefit Review Committee processes is opaque, but appears to be inconsistent and at times prolonged. Loss of financial support for an indeterminate period of time may have significant consequences for this cohort of individuals.
11. The Consultation Document suggests, as a safeguard, that *'specific policies are currently being developed around how MSD would handle client challenges in cases where information received from IR is believed to be incorrect.'* There is no further information on what is anticipated here, and it is unclear whether this would involve a bespoke challenge process. The Law Society recommends that, as a minimum, the proposed AISA amendments should not proceed until such time as those specific policies have been developed, and those policies should provide for a more rapid review of the client's challenge.
12. In addition, consideration could be given to:
  - a. Reducing, rather than removing, the notice period; or

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<sup>1</sup> Acknowledging that a reduction or cancellation of benefit can be reviewed, providing for some procedural fairness *after* the decision has been made.

<sup>2</sup> Law Society's submission on the Social Security Amendment Bill 2025 (8 January 2025) and Social Security (Accident Compensation and Calculation of Weekly Income) Amendment Bill 2026 (19 February 2026).

- b. Providing notice (within a reduced period) of only adverse decisions that have been made on the basis of the shared information.

### Next steps

13. We hope this feedback is useful, and would welcome further engagement on these issues. Please feel free to get in touch via the Law Society's Senior Law Reform and Advocacy Advisor, Claire Browning ([claire.browning@lawsociety.org.nz](mailto:claire.browning@lawsociety.org.nz)) if you have any questions or wish to discuss this feedback further.

Nāku noa, nā



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**Vice President**