



A Proposed Framework for Debt to Government

Submission from Kore Hiakai Zero Hunger Collective

Submitted via: debttogovernment@ird.govt.nz

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Introduction

This submission is on behalf of Kore Hiakai Zero Hunger Collective, in response to the consultation paper released from Inland Revenue requesting feedback from agencies and community groups on the **Proposed Framework for Debt To Government**.

Kore Hiakai Zero Hunger Collective was established in 2018 by our founding partners The Salvation Army, Christchurch City Mission, The Wellington City Mission, VisionWest, Auckland City Mission and the New Zealand Council of Christian Social Services. Our approach brings together community food organisations, including foodbanks, producers, retailers, philanthropy, local and central government and others to build Te Tiriti grounded, long term sustainable solutions to enable a Food Secure Aotearoa. This means supporting a network of foodbanks and community food organisations across Aotearoa, while undertaking the slower, deeper work of addressing the root and systemic causes of poverty-related hunger.

We have prepared this submission because debt to government, particularly to MSD, affects many low-income families experiencing poverty-related hunger. The weight of this debt falls most heavily on women, Māori and Pasifika, and children, the groups who are also most likely to experience food insecurity in Aotearoa.

Kore Hiakai is pleased to see government proposing changes to the handling of this debt in the hope that implementation of these changes will have positive impacts in alleviating poverty-related hunger, moving us closer to a food secure Aotearoa.



Chapter 2 – Principles

Q1. Do you have any comments on the principles as outlined?

Q2. Do you agree with the concept of principles? If so, are these the correct principles? What have we omitted?

Q3. Have we described the principles accurately in your view? If not, how would you reframe them?

Fairness: Kore Hiakai applaud the decision to have fairness at the centre of the framework.

We recommend that this principle be applied retrospectively, to remediate the effects of pre-existing debt in line with the principles and approaches outlined in this new framework.

Applied thoroughly and consistently across departments this principle of fairness ought to remedy the current systemic differences particularly between IR and MSD, whereby individuals experience discriminatory treatment reflected by gender and ethnicity. Currently this systemic discrimination is particularly visible in the way that IR debt typically held by Pakeha men is more readily forgiven than MSD debt that is typically held by Māori and Pasifika women. This impacts particularly on the wellbeing of children of Māori and Pasifika sole parents, who bear significant burdens of debt to MSD.¹

Minimising Hardship: Kore Hiakai support the principle of minimising hardship, particularly where hardship negatively impacts on the individual and/or their dependants.

We support Fincap's call to see hardship defined specifically in line with capabilities for assessing affordability, and echo their view that hardship should be viewed as circumstances where whānau are unable to meet non-discretionary expenses.

We support Fincap's definition for non-discretionary expense as:

Expenses that the borrower does not have complete agency to cease without significant detriment, meaning the expense that interacts with:

- a) Rules, whether contractual, social, cultural, or moral obligations*
- b) The physical or mental health, and wellbeing of the borrower*
- c) The wellbeing of that borrower's whānau, dependents and pets*
- d) Social and cultural connectedness.*

See also further comment below on chapter 4 People Centred Approach

Behavioural responses: Kore Hiakai recommend the promotion of high trust under this principle, and that this principle be of lesser consideration than the principles of fairness and minimising of hardship.

Public Value: Kore Hiakai affirm the intent to weigh the cost of administering and collecting debt against the actual revenue collected.

¹ See <https://www.zerohunger.org.nz/s/KH-Impacts-of-Overpayment-Debt-REPORT-DIGITAL-final.pdf>



We note research by Victoria University tax specialist Lisa Marriot illustrates the disproportionate level of government resource invested in the pursuit of benefit fraud debt compared to that invested in investigating IRD tax evasion debt. Marriot reports that in 2015/2016 benefit fraud levels of around \$24 million compared to tax evasion of \$1.2 billion, yet there was an imprisonment rate for benefit fraud of 67% against the 18% imprisonment of tax evasion. The cost to society of tax evasion is far greater than benefit fraud, benefit overpayment debt and recoverable assistance debt combined. Yet government has historically spent more in pursuit of MSD debt. This does not align with the principle of fairness, nor does it represent good public value.²

Given the unquantified but indisputable cost to society of poor health and educational outcomes of benefit recipients experiencing MSD debt, the social and economic return on investment of administering and pursuing this debt is questionable. If the stated goal of this proposed framework is to contribute to the reduction of child poverty in New Zealand, then there would be greater value in ensuring low income whānau, especially sole parents, have adequate incomes to meet their basic material needs, improving their health and educational outcomes.

Continuing to pursue overpayment debts from whānau who already face income inadequacy serves to entrench poverty, shown in the Social Wellbeing Agency research to most often impact Māori and Pasifika women and their children in high deprivation neighbourhoods. This contrasts with the regular exercise of legislative power within IR to write off tax debt, noted by SWA research to be typically held by men who are from low deprivation neighbourhoods.³ In essence, this continues the harm of colonisation for Māori and perpetuates the racial discrimination experienced by Pacific families in Aotearoa, as well as reinforcing gender wealth inequity. Perpetuating this unfairness and discrimination has no public value, rather causes significant social and economic detriment.

Transparency: Kore Hiakai commend the call for transparency at the heart of debt of Government.

Government efforts to increase transparency and ease of access for debtors to their personal information is commended. We applaud the recently announced Zero Data pilot scheme⁴ providing people with free data access via mobile phones to government websites including MSD & MoJ. We envisage that this pilot will enable people to check and update their personal information in a timely manner that helps to minimise errors of processing that currently result in overpayment debt. We hope that IRD might also join this Zero Data project, so that all departments involved in the administration of debt to Government can allow debtors free and easy access to their personal information.

Kore Hiakai affirm Fincap's call to have court attachment orders explicitly included in this debt to government framework. There is clearly injustice where these attachment orders are the result of overpayment debt wrongfully being recorded as fraud. There is a lack of

² See *The Criminalisation of Poverty in New Zealand* at <https://www.youtube.com/watch?v=GWfo5ovIqys>, also <https://www.treasury.govt.nz/sites/default/files/2015-02/tgls-marriott-slides.pdf>

³ See <https://swa.govt.nz/assets/Publications/reports/Understanding-debt-and-debtors-to-government.pdf>

⁴ See www.zero.govt.nz



transparency embedded in the current system around these attachment orders, whereby MoJ can order benefit deductions without the knowledge of the debtor. Recent research by Stace & Daldorf notes in recent years that 83% of attachment orders were made to benefits, and that these attachments can be made without the debtor being present at court to challenge them, resulting in \$30/week deduction from their benefit with no consideration to their financial status.⁵ This process is at odds with the principles of transparency, fairness and minimising hardship so we urge that attachment orders be addressing specifically in this framework.

Are these the correct principles? What is omitted?

Kore Hiakai question why there is no reference to Te Tiriti in the principles of the framework.

In Chapter 5:2 the authors of this framework acknowledge the importance of Te Tiriti o Waitangi in the foundations of policy design in Aotearoa. Chapter 5 talks specifically to Māori and Pasifika communities being over-represented in experiencing debt to Government. However, there is no reference to the importance of Te Tiriti in the principles of the framework. This separation of Māori and Pasifika into a specifically affected population group creates the appearance that engagement with Te Tiriti is distinct, applicable only to Māori and Pasifika, and not integrated to the rest of the framework.

We note that Otago University Public Health Lecturer Louise Delany writes that “We know that huge inequities exist in Aotearoa. These inequalities reflect historical injustices and current unfair systems. Our tax system helps generate and perpetuate this unfairness.... Historically our system has not demonstrated compliance with obligations under Te Tiriti. Māori effectively paid for their own colonisation through taxation and by transfers of land which amounted to unfair forms of tax. Consequent impoverishment and landlessness led to poverty for most Māori. Ideas on the future of tax policy that seek to honour Te Tiriti need to advance rangatiratanga, and also equity - associated with full rights of citizenship as guaranteed in Articles 2 and 3 of Te Tiriti respectively.”⁶

We would suggest that this also ought to be true for policies in terms of debt to government. The consideration of Te Tiriti and the crown’s responsibilities under it ought to be central to this framework, not relegated to a minor chapter.

⁵ See Regulating Debt Collection Practices in New Zealand: Options for Reform by Daldorf, Tallara and Stace, Victoria, (Victoria University of Wellington, July 8, 2022). Available at SSRN: <https://ssrn.com/abstract=4161249> or <http://dx.doi.org/10.2139/ssrn.4161249>

⁶ See Tax Policy reform: equity, fairness and health, by Louise Delany, 7 March 2023. <https://www.phcc.org.nz/briefing/tax-policy-reform-equity-fairness-and-health>



Chapter 3 – purpose-centred approach (pages 8-13 of the consultation document)

Q4. Do you have any comments on the different kinds of debt, their different purposes, and different treatments?

Q5. Are the right categories identified?

Q7. Do you have any feedback on the recommended treatments?

Overpayment debt – category & treatment

The proposed Debt to Government framework notes that overpayment debt typically occurs from inaccurate or late information about eligibility or assessment, or delays in processing the information. The Zero Data pilot mentioned above addresses some of these concerns where delay is due to the benefit recipient not updating MSD in a timely manner.

As noted in our 2022 paper *The Impacts of Overpayment Debt and Ongoing Need for Food Assistance*⁷, Kore Hiakai encourages the write-off of all overpayment debt to MSD. This debt most often falls on sole parents who are typically Māori or Pacific women parenting children alone. We note that Genesis Energy has introduced the ability to forgive all or part of the power debts of survivors of violent and economically abusive relationships as part of a “fresh start” programme the power retailer is developing for people who find themselves with debt through no fault of their own.⁸ We would hope that this framework might enable and encourage government agencies to implement a similarly compassionate approach to those who find themselves in financial strife due to economically abusive relationships.

We are pleased to note that the proposal suggests that where overpayment is due to administrative error that write-off should be the default response. We are concerned that MSD does not appear to have robust systems of determining where fault lies for overpayment debt, and so this clause for write-off risks being redundant.

Kore Hiakai also call for write-off to be the default for **all forms of debt to government** where such debt is wholly or in part caused by administrative error or administrative processing delay, or where fault cannot be determined to be due to malicious or deliberately fraudulent intent of the debtor.

Loans or Repayments for Services – category and treatment

Kore Hiakai notes that under the category of Loans or Repayments for Services provided by the crown that “repayment is expected and agreed by the recipient from the outset”. Kore Hiakai notes that for those who are struggling to make ends meet and to feed their whānau such ‘agreement’ can feel like there is no real choice but to incur further debt. For those in desperate need such assent to debt terms and conditions may be involuntary or given under duress. For many there may also be issues of financial literacy that mean their assent is not coming from a place of fully comprehending the terms, liabilities or responsibilities to which they are assenting. Further training and mentoring of front-line staff is urgently needed to better provide a level of compassion and understanding for those requesting such assistance.

⁷ See <https://www.zerohunger.org.nz/s/KH-Impacts-of-Overpayment-Debt-REPORT-DIGITAL-final.pdf>

⁸ See <https://www.stuff.co.nz/business/money/131445943/genesis-energy-forgives-debts-of-women-abused-by-partners>



Kore Hiakai has concerns about the determination that certain forms of assistance be recoverable loans. This is an area where gender inequity seems apparent – for example, a special needs grant for a vasectomy is not repayable but grants for school uniforms become recoverable debts. Sole parents, who are most likely to be female, often incur recoverable assistance debts due to their children’s needs. There may also be instances where debt is incurred due to financial control and abuse.

We commend the framework proposal for noting in section 3.12: “government should consider whether it is appropriate for certain forms of assistance to be repayable at all.” If one of the goals of this framework is reduction in child poverty, Kore Hiakai would urge that consideration be given to determining that any form of special needs grants related to child health, wellbeing or education be a non-recoverable grant.

For adult benefit recipients we would encourage a policy that all health-related costs, both mental and physical, be able to be met through non-recoverable grants so that these individuals might be better placed to thrive, rather than being hampered by ill health and poverty.

Kore Hiakai notes that the framework observes that targeted assistance often creates debt and suggest that universal basic services would better provide for whānau in a way that reduces poverty and increases wellbeing.



Chapter 4: People-Centred Approach (pages 15-18)

Q8: Is it easy for debtors to understand what they owe, and to who?

Q9: Are minimum debt repayment amounts typically set at manageable levels?

Q10: How easy is it for debtors to negotiate for hardship relief?

Q11: What kinds of supports are most effective for people with persistent debt?

Q12: What changes would you like to see to the way that the government manages debts, particularly debt owed by low-income households?

Q13: Should there be non-monetary options for paying down fines or debt? How could this work? What potential benefits or risks do you see with this idea?

In 4.4.d the proposal suggests that agencies “could also include an assessment of whether or not debtors are receiving their full and correct entitlements from government agencies”. This ought to be a foundational step rather than a ‘could be included’. Kore Hiakai share the concerns of many NGO agencies that the dysfunctional culture of MSD does not encourage such robust provision of support to those who are recipients of benefits. Implementing this framework will require focused investment in frontline staff training, development and monitoring to ensure consistency and quality in treatment.

In 4.6 the framework asks about the ability to afford basic living expenses and what the financial impact of debt will be on the household. Kore Hiakai modelling of low-income households in the *Ka Mākona*⁹ report illustrates that most low-income households struggle to meet very basic fixed costs before any form of debt repayment or variable costs are included. We reiterate our comments made above in response to the principle of minimising hardship, that hardship be defined in line with ability to afford non-discretionary expenses.

Noting 4.13 on determining rate and method of debt recovery, Kore Hiakai urge that any debt affordability assessments include all other forms of debt, both public and private, that the individual or household hold, and that there is a robust means for determining adequate levels of protected basic income in determining appropriate debt repayment. Debt repayment often compromises the ability of these individuals to improve their circumstances. As noted earlier, debt levels can perpetuate entrenched poverty for our most disadvantaged.

Kore Hiakai would encourage consideration of a 4-week grace period for whānau facing changing circumstances, whether that be changes of relationship, employment or location, to prevent risk of overpayment debt being incurred.

Under the section on consideration of debt relief, Kore Hiakai would question how the principle of fairness will be enacted across agencies. IR seems to have a low threshold for tax debt forgiveness. How is this level of write-off matched equitably by other agencies? We would urge direct legislative changes to be enacted where necessary to ensure that all government departments have consistent and fair capabilities to waive debt where there is risk of hardship.

⁹ See <https://www.zerohunger.org.nz/s/Kore-Hiakai-Ka-Mkona-2022-Web-zm22.pdf>





Chapter 5: Impact of the framework on affected population groups

Q14: Do you agree that the framework should require culturally appropriate communications with debtors? What would this look like for Māori, Pasifika and other affected groups?

Q15: Are extended families and larger households affected differently by government debt? How could this be addressed in the framework?

Q16: Should the framework reference a specific role for whānau, hapū or iwi or other community groups in the resolution of problem debt? What would this look like?

Q17: What issues are of most concern to the group that you represent?

Q18: Are they addressed by the proposed framework?

Q19: Do you have comments on the ways to improve the accessibility of communications about debt for different population groups (for example, young people or disabled people?)

Q20: What improvements would you suggest?

*Lifting The Weight*¹⁰, the recent report from Fairer Future, relays several stories of individual's experiences of MSD. The current experience of service from MSD by benefit recipients is far removed from the values noted here of whanaungatanga, kotahitanga and manaakitanga. Kore Hiakai urge all departments to undertake Te Tiriti training with their frontline staff, to enable more culturally appropriate provision of service to Māori.

Kore Hiakai consider that there is a place for a government-backed iwi-based debt consolidation programme similar to that offered by Ngā Tangata or Good Shepherd, where Māori could have both public and private debt consolidation offered with no interest. There is also a place for government-funded financial literacy programmes designed for and offered by tangata whenua.

¹⁰ See <https://fairerfuture.org.nz/lifting-the-weight>



Summary comments

This framework has a lot that is positive and hopeful for those facing debt to government. The question that lies unanswered is how these principles and framework might become policy and practice. What commitment is being made by agencies to implement policy changes in line with this to bring about immediate change to practice? How will agencies be monitored or held to account for their implementation of the principles and framework?

In particular it would seem that there is urgent legislative work required to enable MSD to rewrite legislation around writing off MSD debts. Our research shows that sole parents face regular deductions from their benefit of close to \$20 a week, often for MSD debt incurred beyond their control¹¹. Continuing to penalise and deduct debt repayments from the benefits of those struggling most to provide for their dependants runs counter to the principles proposed in this framework.

We encourage the working group to recommend the necessary changes to enable the write-off of this MSD debt as a matter of urgency, knowing that this will have significant positive impact on those whose children are most affected by poverty-related hunger in Aotearoa.

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¹¹ See <https://www.zerohunger.org.nz/s/KH-Impacts-of-Overpayment-Debt-REPORT-DIGITAL-final.pdf>

