

# Regulatory Impact Statement: Introducing mandatory reviews to support implementation of the Budget 2024 cost-savings initiative to recognise housing contributions from all boarders

## Coversheet

*This Regulatory Impact Statement contains legal advice and is legally privileged. Before any public release, legal advice should be requested to identify which text is legal advice, and to determine what should be withheld.*

BUDGET SENSITIVE

Purpose of Document	
Decisions sought:	Agreement to amend the Social Security Act 2018 to allow the Ministry of Social Development to use Automated Decision-Making to review specified benefits and take action as the result of a review at least once every 52 weeks (mandatory reviews).
Advising agency:	Ministry of Social Development
Proposing Minister:	Minister for Social Development and Employment
Date finalised:	23 January 2025
Problem Definition	
<p>To implement the Budget 2024 cost-savings initiative to recognise housing contributions from all boarders in the assessment of housing subsidies (the boarders' contribution initiative), the Ministry of Social Development (MSD) must be able to confirm clients' circumstances, to determine whether contributions from boarders (if any) should affect the client's rate of housing subsidies or other income-tested assistance. There is currently no mechanism to confirm this information for all relevant subsidies on a regular basis ahead of the implementation of this initiative from 2 March 2026. Resource constraints mean using Automated Decision-Making (ADM) to confirm information would be preferable.</p> <p>MSD uses automated decisions to undertake some reviews using its existing discretionary powers under the Social Security Act 2018 (the SSA).<sup>1</sup> s 9(2)(h) [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED] This includes efficiently collecting information from clients on boarding arrangements that impact assistance clients are eligible for.</p> <p>Currently, MSD is not required to review clients' circumstances at specific times to test their rate and eligibility for the specified benefits. This can make it uncertain whether clients are receiving the correct rate of assistance, or if they are eligible for that assistance.</p>	
Executive Summary	

<sup>1</sup> Discretion is an exercise of judgement to choose between two or more possible actions.

<sup>2</sup> These are Supported Living Payment, Emergency Benefit with an expiry date longer than 52 weeks or no expiry, Accommodation Supplement, Disability Allowance and New Zealand Superannuation with an Non Qualified Partner.



To implement the boarders' contribution initiative, MSD must be able to confirm clients' circumstances, to determine whether contributions from boarders (if any) should affect the client's rate of housing subsidies or other income-tested assistance.

s 9(2)(h)

Clients receiving Jobseeker Support or Sole Parent Support are required to reapply for benefit.

To ensure that these clients are receiving their correct rate of assistance, MSD needs an efficient system to regularly review some on-going benefits. Using ADM to review clients' specified benefits on a 52-week basis has the potential to deliver effectiveness and efficiency gains, for both MSD and clients. s 9(2)(h)

The objectives of this proposal are to:

- confirm that a client is still eligible and receiving the correct rate of assistance at least once every 52 weeks
- confirm if a client has boarders and the boarders' details in the assessment of benefits
- allow the use of ADM to administer the mandatory reviews, to reduce the impact on MSD's frontline staff.

We have considered two options against status quo (Option 1), which are:

- Option 2 – amend legislation to allow MSD to introduce a mandatory review for all specified benefits to test clients ongoing rate and eligibility and collect boarders' information (without the ability to use ADM)
- Option 3 – amend legislation to allow MSD to introduce a mandatory review for all specified benefits to test ongoing rate and eligibility and collect boarders' information; and enable the use of ADM to administer these reviews.

MSD's recommended option is Option 3: amend legislation to allow MSD to introduce a mandatory review for all specified benefits to test ongoing rate and eligibility for some payments; and enable the use of ADM to administer these reviews.

This will provide an opportunity for clients to regularly confirm whether any of their circumstances have changed, to ensure that they are still eligible and receiving the correct rate of assistance. It will also allow us to collect information from clients on boarding arrangements, which will allow us to implement the boarders' contribution initiative.

### Limitations and Constraints on Analysis

The analysis underpinning this RIS contains several constraints and assumptions:

- **Narrow scope:** The options in this proposal seek to ensure a consistent way for MSD to review clients' circumstances and taking action as the result of a review. We have sought the options to address current practice and have not explored



other possible wider policy changes or improvements due to operational and funding constraints.

- **Assumptions around improved accuracy:** There are assumptions that ADM will create more positive outcomes for clients. In general ADM is intended to ensure people receive all the assistance they are entitled to by removing the human element including inconsistent eligibility information and any unconscious bias. However, depending on the design of the algorithms used, it is possible for the use of ADM to entrench existing inequities in the welfare system as these can be built into the data collection.
- **Assumption around the social licence:** There is an assumption that MSD has the social licence for machines to make decisions. It is assumed that the widespread use of ADM outside of MSD may mean the public would expect and even support its use within the welfare system. However, the public sentiment on this matter has not been explicitly tested.
- **Limitations on consultation:** There was no public consultation. However, the Office of the Privacy Commissioner, the Ministry of Housing and Urban Development, Kāinga Ora, and Treasury were consulted on this proposal.

#### Responsible Manager(s) (completed by relevant manager)

*Leah Asmus*

Policy Manager

Welfare System Policy

Ministry of Social Development

23 January 2025

#### Quality Assurance (completed by QA panel)

Reviewing Agency:	A Quality Assurance Panel that included members from Ministry of Social Development
Panel Assessment & Comment:	<p>The panel reviewed the attached RIS and concluded that the RIS partially meets the quality assurance criteria.</p> <p>The panel considers that the assessment is generally clear, complete, and convincing about the need for Automated Decision-Making (ADM) given resourcing constraints on manually collecting the information. However, the argument for the use of ADM would have been strengthened by having:</p> <ul style="list-style-type: none"> <li>• data on the number of staff needed to manually collect the information</li> <li>• a means of verifying client statements about their circumstances</li> <li>• data on the scale of expected efficiency improvements and savings from the use of ADM.</li> </ul> <p>It would have been useful to test with the public the social license for undertaking ADM in the welfare system. It would also have been useful to undertake consultation with end users to test the accuracy of the preferred option analysis. However, the QA panel recognises this was not possible within the timeframe.</p>

## Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. The boarders' contribution initiative was agreed to by Cabinet as part of Budget 2024 [CAB-24-MIN-0148.74 refers]. This initiative will change the way the Ministry of Social Development (MSD) calculates the accommodation costs of people receiving payments from boarders and receiving Accommodation Supplement, Temporary Additional Support (TAS), and Special Benefit.<sup>4</sup>
2. The boarders' contribution initiative is proposed to be expanded to include changes to the treatment of excess income from contributions from boarders. This is intended to simplify administration, improve transparency, and better align the treatment of housing contributions from boarders with how rent is treated.
3. This new treatment of excess income is proposed to apply in the calculation of all income-tested assistance under the Social Security Act 2018 (the SSA), and for other assistance that uses the SSA definition of income. This includes calculating assistance for clients that are not receiving a housing subsidy.

What is the policy problem or opportunity?

4. To implement the boarders' contribution initiative, MSD needs to collect information on boarding arrangements for all clients. It does not currently consistently collect this information in assessing SSA assistance. MSD proposes that this information is collected as part of reviewing a client's circumstances, however it does not currently regularly review all the benefits relevant to this initiative.
5. Currently, MSD does not have a requirement to review clients' circumstances at specific times to test their rate and eligibility for some ongoing benefits (the specified benefits).<sup>5</sup> Where client circumstances are not regularly reviewed, MSD cannot be certain clients are receiving the correct rate of assistance, or if they continue to be eligible for that assistance.
6. s 9(2)(h)   
  
 MSD does not have capacity to complete these reviews manually. Consequently, MSD has been required to consider opportunities to check client circumstances more efficiently through the use of Automated Decision-Making (ADM). The use of ADM is necessary

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<sup>4</sup> The initiative will also change the way Income Related Rent (IRR) is calculated for people living in Social Housing (SH) and receiving payments from boarders (referred to as "additional residents" for the purposes of SH). However, the IRR calculation is not directly affected by these mandatory annual review and automated decision-making proposed, so it is not discussed in detail here. The IRR calculation and further information on the boarders' contribution initiative will be discussed in the Supplementary Analysis Report which will be provided when Cabinet Legislation Committee consider the draft Bill required to implement these changes.

<sup>5</sup> These are Supported Living Payment, Emergency Benefit with an expiry date longer than 52 weeks or no expiry, Accommodation Supplement, and Disability Allowance, New Zealand Superannuation (NZS) with a Non-Qualified Partner (grandparented).



to collect the information and review people's specified benefits to implement the boarders' contribution initiative.

7. We propose:
  - introducing a requirement that MSD must review specified benefits at least once every 52 weeks (the mandatory reviews) to confirm clients' circumstances and if they are still eligible, and to ensure they are receiving the correct rate of payment
  - broadening the targeted provisions in section 363A of the SSA (that currently allow limited use of ADM in respect of child support passed on by Inland Revenue) to allow the use of ADM for the administration of mandatory reviews. The existing safeguards included in the ADM Standard would also apply to the use of ADM for implementing mandatory reviews.<sup>6</sup>
8. Specified benefits that will be included for mandatory reviews are:
  - Supported Living Payment
  - Emergency Benefit with an expiry date beyond 52 weeks or no expiry date at all
  - Accommodation Supplement
  - Disability Allowance
  - New Zealand Superannuation (NZS) with a Non-Qualified Partner (NQP) (grandparented).
9. By initiating a mandatory review every 52 weeks that a client on these specified benefits must respond to, MSD will be able to confirm the information it holds for the client. In the case of the boarders' contribution initiative, this will allow MSD to confirm information on boarders in a household to ensure clients in that household are paid the correct assistance. This is necessary to meet the policy intent to avoid subsidising the same set of accommodation costs twice.
10. Currently a homeowner/primary tenant can have up to two boarders before their housing subsidies are impacted. The homeowner/primary tenant and boarder can both receive housing subsidies for the same set of accommodation costs. The boarders' contribution initiative will see all housing contributions from boarders counted in the assessment of housing subsidies.
11. By initiating a mandatory review every 52 weeks that a client on these specified benefits must respond to, MSD will be able to confirm the information MSD holds on boarders in a household to ensure clients in that household are paid the correct assistance. A regular review is necessary as boarding arrangements are often short term and can change often. If a household does not update its details with MSD, it would not know about changes to arrangements until the mandatory review. In addition, some housing subsidies (such as the Accommodation Supplement for non-beneficiaries) do not currently have an annual review and creating a manual review would impact on frontline capacity.
12. Allowing the use of ADM to administer these mandatory reviews will ensure MSD can gather the information it requires to administer the boarders' contribution initiative while

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<sup>6</sup> MSD's ADM Standard (Appendix 1) provides a range of safeguards in the form of requirements that must be met when there is a proposal to automate a decision at MSD, and the automated decision has the potential to affect an individual's entitlement, obligations, or eligibility status for support delivered or funded by MSD. It is designed to help mitigate risks and any potential negative impacts on clients of using ADM.

reducing the impact on MSD's frontline staff and allowing them to focus on high value conversations about employment.

13. Some detailed matters about the process for review are outlined below under Option 2.

### **Population group impacts**

14. For the avoidance of doubt, this RIS only includes the population group impacts of mandatory reviews for specified benefits. Population group impacts of the wider boarders' contribution initiative changes are out of scope for the purposes of this RIS but will be included in the Including Boarders' Contributions in the Calculation of Subsidies Supplementary Analysis Report.

#### *Māori*

15. Māori are disproportionately represented in the welfare system compared to the overall working-age population. While the proposal in this RIS will not be targeted to Māori, introducing mandatory reviews of may have a greater impact on Māori given they are overrepresented in the benefit population. MSD will mitigate the risk of negative impacts by making it easy for all clients to engage with MSD and confirm that the information MSD holds about them is correct. This will ensure that clients are still eligible and receiving the correct rate of assistance. Alignment and oversight by the Privacy, Human Rights and Ethics (PHRaE) framework and the ADM Standard, will monitor to ensure any potential bias that may impact Māori, is well managed.

#### *Pacific peoples*

16. Similar to Māori, Pacific peoples are also disproportionately represented in the welfare system as compared to the overall working-age population. As a result, the proposal contained in this RIS may have disproportionate impact on them. However, as mentioned previously, introducing mandatory automated reviews will enable MSD to collect up to date information regarding clients' circumstances, which in turn will ensure that clients are receiving the correct rate of assistance. Alignment and oversight by the PHRaE framework and the ADM Standard, will monitor to ensure any potential bias that may impact Pacific peoples is well managed.

#### *Older people*

17. Approximately 125,000 New Zealand Superannuation (NZS) clients receive Disability Allowance and/or Accommodation Supplement. With an ageing population in New Zealand, it is likely that the total number of clients who will be impacted by mandatory reviews will continue to increase.
18. Currently, a majority of NZS clients who receive Disability Allowance or Accommodation Supplement never have these benefits reviewed. It may create confusion for these clients to introduce a requirement that they must respond to a mandatory review of their Disability Allowance or Accommodation Supplement. However, as disability-related costs and accommodation costs are likely to change with time, we consider that reviewing these costs annually will be beneficial for clients.
19. This cohort of clients does not regularly interact with MSD. It is difficult to predict or quantify the impact additional reviews may have on these clients or service delivery.



However, we anticipate that these changes will create more opportunities for clients to check-in with MSD and to receive appropriate support based on their circumstances.

20. NZS clients with a Non-Qualified Partner (NQP) are reviewed annually so we expect a limited impact on this group.

#### *Disabled people*

21. Mandatory reviews would include reviewing approximately 100,000 Supported Living Payment clients and 125,000 NZS clients who get Disability Allowance. All mandatory reviews for all clients will not include a review of their health condition or disability.
22. Introducing mandatory reviews will require these clients to confirm the information MSD holds about them that will impact their benefit eligibility and rate. This will ensure clients are receiving the correct rate of payment and are still eligible with limited compliance activities from their end.
23. We note that some disabled people (as well as people from other client cohorts) may find it hard to engage with MSD within the required review timeframes. To mitigate this, we are proposing the ability for MSD to allow appropriate exceptions, extensions and exemptions to clients who are not able to respond to these mandatory reviews due to their circumstances. This ability will ensure that clients are not negatively impacted due to no fault of their own.

#### **Treaty of Waitangi implications**

24. MSD's Privacy, Human Rights and Ethics (PHRaE) framework incorporates guidance on aligning MSD's processes to Te Tiriti o Waitangi/The Treaty of Waitangi. As part of the PHRaE process, MSD will assess mandatory reviews against the ADM standard (appendix 1).
25. The ADM Standard outlines requirements for MSD to ensure that we have taken steps to manage unintended bias or discrimination and are protecting the interests and wellbeing of our clients who are affected by automated decisions.

#### **What objectives are sought in relation to the policy problem?**

26. The proposal contained in this RIS aims to allow MSD to:
  - confirm if a client is still eligible and is receiving the correct rate of payment
  - confirm if a client is receiving any contributions from boarders
  - use ADM to implement the policy without large impacts on MSD's frontline staff capacity.

## **Section 2: Deciding upon an option to address the policy problem**

#### **What criteria will be used to compare options to the status quo?**

27. We have used the criteria below to compare the options to the status quo, assessing whether each option:
  - clients are more likely to be paid the correct entitlement (including that they can easily declare any boarder information)

- improves the efficiency of MSD's administration of assistance (the implementation of mandatory reviews has limited impact on MSD staff including on MSD's ability to implement the boarders' contribution initiative)
- is feasible to implement (including timing considerations and fiscal implications)
- s 9(2)(h)

## What options are being considered?

28. We considered three options to test against the criteria:

- Option 1 - Status quo
- Option 2 - amend legislation to allow MSD to introduce a mandatory review for all specified benefits to test clients ongoing rate and eligibility and collect boarders' information (without the ability to use ADM)
- Option 3 - amend legislation to allow MSD to introduce a mandatory review for all specified benefits to test ongoing rate and eligibility and collect boarders' information; and enable the use of ADM to administer these reviews.

### Option 1: Status Quo

29. Currently, only some of the specified benefits are reviewed annually. Which clients receive a review is determined by factors such as:

- age of the client when their benefit was first granted
- relationship status when benefit was granted
- level of debt.

30. This leads to inconsistency experience for clients. It also would not allow the necessary information to be collected to implement the boarders' contribution initiative.

31. s 9(2)(h)

32. s 9(2)(h) For this reason, we have discounted this option.

### Option 2 - amend legislation to allow MSD to introduce a mandatory review for all specified benefits to test clients ongoing rate and eligibility and collect boarders' information (without the ability to use ADM)

33. This option would involve amending legislation to introduce a requirement that MSD reviews specified benefits,<sup>7</sup> at least once every 52 weeks. The review will ask clients to confirm the information MSD holds about their circumstances, including any boarders' information so MSD can ensure the client is still eligible and receiving the right rate of assistance. Currently there is no requirement that clients must provide verification of

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<sup>7</sup> This includes all clients who receive Supported Living Payment, Emergency Benefit with an expiry date longer than 52 weeks or no expiry, Accommodation Supplement, and Disability Allowance.



their circumstance however, MSD can still review and request information from clients under their current review powers.

34. A client's review date (the date they must respond to the review by) is 52 weeks since their last review, or 52 weeks since their commencement date if they are yet to have a review. Clients will be notified about their review at least 20 working days before their review date.
35. A client must respond to their review by their review date and if they are still eligible, then their benefit would continue. MSD will action any change in rate or eligibility as a result of a change in circumstances. If the client does not respond to their review, their assistance would be stopped on their review date.
36. Some clients will have circumstances which prevent them from responding to their mandatory reviews. We propose to introduce legislative amendments to allow MSD to implement:
  - exceptions where MSD would not be required to review a group of clients and/or a group of clients would not be required to respond to a review (these clients would not be required to respond to a review while they are experiencing specific circumstances or situations) for example:
    - The client is in hospital for more than 13 weeks.
    - The client is in residential disability care or rest home care.
    - A major system outage that prevents MSD and/or clients from meeting the review requirements.
    - The client resides in, or is present in, and cannot reasonably leave, an area in respect of which a state of local or national emergency is in force.
    - An outbreak of a quarantinable disease in respect of which an epidemic notice has been given, and is in force in the area that the client resides in, or is present in and cannot reasonably leave.
  - exemptions where MSD can exempt an individual client from a mandatory review for that review date when a client contacts MSD and MSD is satisfied that the client is not able to respond the review even if they had more time (their next review would take place one year 52 weeks later)
  - extension where a review date can be extended by up to 20 working days if MSD determines a client needs more time to respond to the review.
37. This option also includes ability to move the review date 52 weeks into the future when a client has a suitable engagement that checks and confirms the same circumstances that their mandatory review would have. The below table details how many clients would receive a mandatory review based on June 2024 numbers.

*Table: Summary of client impact*

<b>Benefit group</b>	<b>Approximate number of clients impacted</b>
<b>Main benefits<sup>8</sup></b>	111,000
<b>Disability Allowance<sup>9</sup> (working age people who do not receive a main benefit or NZS clients )</b>	125,000
<b>Accommodation Supplement (working age people who do not receive a main benefit or NZS clients)</b>	87,000
<b>New Zealand Superannuation with a Non-Qualified Partner</b>	9,000
<b>Total</b>	332,000

*Are clients more likely to be paid the correct entitlement (including that they can easily declare any boarder information)?*

38. Introducing a mandatory review in which clients must confirm that the information MSD holds about them is correct means that clients can easily confirm if they have had a change in circumstances. This will ensure that clients are receiving the correct assistance from MSD and can avoid over- or underpayment of assistance.

*Does this option improve the efficiency of MSD's administration of assistance (the implementation of mandatory reviews has limited impact on MSD staff including on MSD's ability to implement the boarders' contribution initiative)*

39. Requiring MSD to administer all mandatory reviews would also result in a corresponding increase in frontline workload. Depending on the size of this increase in workload burden, there could be an impact on staff ability to complete reviews in a timely manner. This could have flow on impacts for other areas such as employment support.
40. Although this option has not been costed, we expect that it would be less efficient than Option 3 because it would take a significant number of staff to be able to manually process approximately 332,000 reviews each year.

*Will this option be feasible to implement (including timing considerations and fiscal implications)?*

41. It is likely that this option would require a large increase in the frontline staff resources. We would likely need to hire a significant number of new staff to process these reviews to keep up with the reviews of approximately 332,000 clients receiving these benefits. This option would not be feasible to implement given the expected costs and would result in an increase in ongoing administrative costs for MSD.

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<sup>8</sup> This includes reviewing supplementary assistance for those receiving a main benefit.

<sup>9</sup> For main beneficiaries, Disability Allowance and Accommodation Supplement are generally reviewed at their automated review or as a separate review that aligns with the 52-week reapplication.



42. Implementation of this option is dependent on Cabinet agreeing to reinvest Benefits or Related Expenses (BoRE) savings into FTE and IT costs, as MSD will be unable to progress this option without additional funding.
43. This cost could potentially be offset by an estimated \$238.302 million in BoRE savings over the next five years due to approximately an extra 225,000 clients being reviewed.

§ 9(2)(h)

44. § 9(2)(h)

**Option 3 - amend legislation to allow MSD to introduce a mandatory review for all specified benefits to test ongoing rate and eligibility for specified benefits and collect boarders' information; and enable the use of ADM to administer these reviews**

45. This option would introduce a mandatory review that MSD must initiate at least every 52 weeks, with the same parameters as described above in Option 2
46. The key difference with Option 3 is that ADM would be used to administer the mandatory reviews. The parts that would be automated or manual are detailed in the table below.

Client action	Outcome
Client confirms that the information MSD holds about their circumstances is correct.	The review will be fully automated. <sup>10</sup> The client's benefit will continue at the same rate, and the review date will reset to 52 weeks in the future.
Client does not provide information required for MSD to complete the review.	Benefit will automatically stop on the review date.
Client states the information presented to them is incorrect	A staff member processes the review and resets the review date or will stop the benefit if the client is not eligible.

47. This would be achieved by expanding the current partial enabling provision in the SSA to allow its use for mandatory reviews. The analysis below builds on the earlier analysis of Option 2 to consider the additional benefits and risks of the use of ADM.
48. Any use of ADM will be undertaken in line with the ADM Standard as part of the PHRaE process. The ADM Standard will provide safeguards to ensure this use of ADM is accurate, transparent and has human oversight.

*Are clients more likely to be paid the correct entitlement (including that they can easily declare any boarder information)?*

49. Introducing an automated mandatory review will enable MSD to confirm if a client is still eligible for assistance, is receiving the correct rate of assistance, and has any contributions from boarders. The ADM Standard which is governed by the PHRaE framework will ensure the use of ADM in this process will be accurate and will not create bias or an unnecessary burden on clients and has human oversight of any

<sup>10</sup> Emergency Benefit will not have a fully automated review. A person will action the review even if the client says they have no change in circumstances.

decision that is made using automation. See sections 3.2. Accuracy, bias and discrimination and 3.5. Human oversight of the ADM Standard (Appendix 1).

*Does this option improve the efficiency of MSD's administration of assistance (the implementation of mandatory reviews has limited impact on MSD staff including on MSD's ability to implement the boarders' contribution initiative)*

- 50. Introducing a rules-based review regime into legislation will enable the use of ADM, which will avoid large impacts on MSD's frontline staff capacity. This would enable MSD to prioritise frontline resources towards higher-value conversations with clients, such as discussing employment support.
- 51. The use of ADM in administering these reviews is critical to the successful implementation of the boarders' contribution initiative.

*Will this option be feasible to implement (including timing considerations and fiscal implications)?*

- 52. The approximate initial IT costs for implementing mandatory reviews is \$5.339 million and FTE costs are \$7.559 million.
- 53. Implementation of this option is dependent on Cabinet agreeing to reinvest Benefits or Related Expenses (BoRE) savings into FTE and IT costs, as MSD will be unable to progress this option without additional funding.
- 54. This cost could potentially be offset by an estimated \$238.302 million in BoRE savings over the next five years due to approximately an extra 225,000 clients being reviewed.
- 55. Decisions are being sought through Budget 2025 to secure this funding.

s 9(2)(h)

56. s 9(2)(h)



How do the options compare to the status quo?

Criteria / Option	Option 1: Status Quo	Option 2: amend legislation to allow MSD to introduce a mandatory review for all specified benefit to test ongoing rate and eligibility for some payments (without the ability to use ADM)	Option 3: amend legislation to allow MSD to introduce a mandatory review for all specified benefit to test ongoing rate and eligibility for some payments; and enable the use of ADM to administer these reviews
Improves effectiveness of MSD's administration of assistance (MSD can easily confirm that a client is still eligible and is receiving the correct rate of assistance)	0	+	++
Improves the efficiency of MSD's administration of assistance (the implementation of mandatory reviews has limited impact on MSD staff including on MSD's ability to implement the boarders' contribution initiative)	0	--	++
Feasible to implement (including timing considerations and fiscal implications)	0	--	++
s 9(2)(h)			
Overall assessment	0	+	++

- Key for qualitative judgements:
- ++

much better than status quo/doing nothing
- +

better than status quo/doing nothing
- 0

about the same as status quo/doing nothing
- worse than status quo/doing nothing
- much worse than status quo/doing nothing

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

57. The recommended option (Option 3) is significantly better than the other options. As indicated in the above table, it aligns with all the criteria we have used to review its suitability.

## Section 3: Delivering an option

How will the new arrangements be implemented?

58. Legislative changes to enable mandatory reviews and the use of ADM will be passed as part of Budget 2025 night legislation, as part of the boarders' contribution initiative (and bill) and will commence on 2 March 2026. We note that this bill will contain other provisions that may have different implementation considerations, which are outside the scope of this RIS.
59. Introducing mandatory reviews is likely to result in BoRE savings over time. However, implementing these reviews will require costs, including for IT changes and extra FTE. Implementation of the recommended option is dependent on Cabinet agreeing to reinvest BoRE savings into FTE and IT costs, as MSD will be unable to progress this option without additional funding. These decisions are being sought through Budget 2025.

How will the new arrangements be monitored, evaluated, and reviewed?

60. The vehicle for monitoring, evaluation, and reviews of this proposal would either be through, or align with, the rules in the ADM Standard. Compliance with the ADM Standard must be verified for all new uses of ADM through risk assessments using MSD's PHRaE process. The ADM Standard is designed to evolve to ensure any current issues are picked up during implementation.
61. Regular monitoring must be carried out to ensure that ADM continues to produce expected results, and to ensure that unintended bias and discrimination are reduced as much as possible. The frequency of monitoring would depend on the risk profile of ADM within the process.
62. A compliance review must be carried out at least once every three years or more frequently (based on the nature and level of risk connected to the process) to ensure that any ADM that is approved under the Standard continues to meet the requirements of the Standard.

# Appendix 1: MSD's Automated Decision-Making Standard

## Automated Decision-Making Standard

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Approved by:	Leadership Team
Standard Owner:	General Manager Information
Review date:	1 March 2025

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### 1 Definitions

- 1.1. **Automation** is the use of systems or components of systems to replace repeatable processes in order to reduce dependency on manual actions or interventions.
- 1.2. Processes can be automated based on the application of:
  - (i) known business rules, and/or
  - (ii) data-based algorithms without involvement or assessment by a human, including statistically or analytically derived patterns in machine learning or Artificial Intelligence.
- 1.3. A **decision** for the purpose of this standard is the action of choosing between two or more possible actions and may be derived from legislative, cabinet or other legal authority or can be operational, and may be discretionary or non-discretionary.
- 1.4. An **automated decision** for the purpose of this standard is a decision within an automated process where there is no substantial human involvement in making the decision.
- 1.5. **Discretionary decisions** require an exercise of judgment to choose between two or more possible actions.
- 1.6. A non-discretionary decision **does not** require any exercise of judgement to determine the appropriate action.
- 1.7. A **Business Owner** is the person who is accountable for the automated process at any given time.
- 1.8. For the purposes of this standard, "**bias**" refers to the tendency of an automated decision process to create unfair and unjustified outcomes, such as favouring or disfavouring one group over others.
- 1.9. Automated decisions may be biased because, for instance, the **datasets** they rely on are biased, potentially as a result of how data was collected in the past, or because **social conditions** mean that some groups are overrepresented in some risk groups.
- 1.10. The prohibited grounds of discrimination are set out in the **Human Rights Act 1993 Section 21**: sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status and sexual orientation.
- 1.11. Discrimination on these grounds can be justified under the **Bill of Rights Act 1990 Section 5**, but only to such reasonable limits that are lawful and can be clearly and ethically justified.



## 2 Applicability

- 2.1 This standard **must** be applied using the operational guidance when:
- (i) there is a proposal to automate a decision (as defined in sections 1.3 and 1.4), **AND**
  - (ii) the automated decision has the **potential to affect**, an individual's entitlement, obligations, or eligibility status for support delivered or funded by the Ministry of Social Development (the Ministry).
- 2.2 Where a complex algorithm is being proposed, the Model Development Lifecycle **must** be used.
- 2.3 Any exception to this standard **must** be approved by the Chief Executive before automated decision-making can be implemented.

## 3 Standard Requirements

### 3.1 General

- 3.1.1 Automated decision-making **must**:
- (i) improve efficiencies and effectiveness of decision making and balance factors such as cost, accuracy, reliability and safeguarding the wellbeing of those affected.
  - (ii) comply with all applicable Ministry policies and standards that relate to the privacy, security and management of information.
- 3.1.2 Automated decision-making **must not** create inefficiencies for those the decisions directly affect, for example, creating manual workarounds for a client to enable automation, or unnecessarily increasing time from application to notification of a decision than would otherwise occur if it was manually completed.
- 3.1.3 There **must** be clear, relevant, and accessible guidance for users who are required to input or provide data to be used in automated decision-making, for example, a service user entering their information in MyMSD.

### 3.2 Accuracy, bias and discrimination

- 3.2.1 Accuracy and reliability **must** be assessed before automated decision-making is implemented to ensure, insofar as possible, that automated decision-making is producing expected results, that automated decisions do not deny clients correct entitlement, and bias and discrimination is well managed.
- 3.2.2 Based on the assessment carried out under 3.2.1, where evidence suggests that automated decision-making has resulted in unintended bias, steps **must** be taken to identify and remove or mitigate the unintended bias, and any residual risk **must** be accepted by the Business Owner.
- 3.2.3 Where unintended bias cannot be removed or sufficiently mitigated, substantial human involvement **must** be included in the process. This would then mean that the decision is no longer an automated decision.

### 3.3 Policy, fraud and legal considerations

- 3.3.1 Automated decisions **must** be lawful and align with policy intent.
- 3.3.2 An assessment must be undertaken to determine whether any proposed automated decision-making has the potential to:
- (i) Increase (or decrease) the likelihood that people will commit internal or external fraud or client non-compliance; or

- (ii) increase (or decrease) the scale or size of potential internal or external fraud or client non-compliance.
- 3.3.3 Any increased risk of fraud **must** be accepted by the Business Owner before automated decision-making can be implemented.
- 3.3.4 Prior to automating discretionary decisions, you **must** ensure that any legal risk(s) are identified and mitigated or accepted by the Business Owner before automated decision-making can be implemented.

### 3.4 Transparency

- 3.4.1 The Ministry **must** make information publicly available about:
  - (i) what policies and processes are used to identify and mitigate risks associated with automated decision-making, in particular those that relate to human rights and ethics; and
  - (ii) what decisions are made using automated decision-making as soon as reasonably practicable after they have been:
    - a. identified;
    - b. assessed against the Standard; and
    - c. approved by the Business Owner and the Standard Owner.
- 3.4.2 The Ministry **must** provide as much transparency as possible, while minimising the risk of fraud, to clearly explain how a decision has been made through the use of automation, including the role of humans in automating the decision and who is accountable for the process and the decision made.
- 3.4.3 If a lawful restriction prevents explanation, the Ministry **must** provide as much explanation as possible to the individual and clearly outline what details have been withheld and why.
- 3.4.4 The use of automated decision-making **must** be communicated to the individual in a way that is easy to understand and clearly shows a decision was made using automation, the outcome of that decision, and the process for challenging or appealing decisions.

### 3.5 Human oversight

- 3.5.1 A visible and accessible point of contact **must** be nominated for public inquiries about decisions made using automation.
- 3.5.2 The Ministry **must** provide a channel for challenging or appealing decisions made using automation and this channel **must** be made easily visible and accessible to the individual(s) impacted by the decision.
- 3.5.3 The process to review an automated decision that has been challenged or appealed **must not** itself be an automated process.

### 3.6 Compliance and assurance

- 3.6.1 Compliance with this standard **must** be verified for all new uses of automated decision-making through the existing Security, Privacy, Human Rights and Ethics Certification and Accreditation process.
- 3.6.2 Regular monitoring **must** be carried out to ensure that the automated decision-making continues to produce expected results and to ensure bias and discrimination are well managed.
- 3.6.3 A compliance review **must** be carried out at least once every three years or more frequently (based on the nature and level of risk connected to the process) to ensure that any automated

decision-making that is approved under this standard continues to meet the requirements of the standard.

## 4 References

- 4.1.1 Principal tools and policies used as inputs in the development of this Standard.

[Principles for Safe and Effective Use of Data and Analytics](#)

[Algorithm Charter for Aotearoa New Zealand](#)

[Data Protection and Use Policy](#)

- 4.1.2 Tools that directly support the application of this Standard.

[Operational Guidance](#)

[Data Model Lifecycle](#)

[PHRaE guidance: Operational analytics and automation](#)