



Submission to the Ministry of Social Development

Discussion document: A wage supplement as an alternative to Minimum Wage Exemption permits

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1. Key points and recommendations

IHC makes the following summary points and recommendations in response to the Discussion document: A wage supplement as an alternative to Minimum Wage Exemption (MWE) scheme.

- IHC strongly supports moves to end the discriminatory practices of the MWE scheme in ways that ensure people with intellectual disabilities¹ receive fair wages and achieve better alignment with the Convention on the Rights of Persons with Disabilities (UNCRPD).
- That said, IHC has reservations about the proposed wage supplement alternative to the MWE and suggests that further work is needed before deciding on the whether to adopt such an approach or not.
- There needs to be consideration of the broad context in which this issue sits including the linked issues relating to:
 - greater investment in developing social investment models;
 - creating more microbusiness opportunities;
 - increasing access to employment support services;
 - increasing access to and addressing funding shortfalls for community participation programmes; and
 - increasing the amount that can be earned before abatement rates on benefits start.
- Further work is needed to ensure that people with intellectual disabilities and their families and whanau will not be disadvantaged and transition funding made available to assist service providers and employers adjust to changes.

As a member of the New Zealand Disability Support Network (NZDSN), IHC endorses NZDSN's submission on the Discussion Document.

2. About IHC

IHC was founded in 1949 by a group of parents who wanted equal treatment from the education and health systems for their children with intellectual disability. The IHC of today is still striving for these same rights and is committed to advocating for the rights, welfare and inclusion of all people with an intellectual disability. We support people with intellectual disability to lead satisfying lives and have a genuine place in the community.

We support more than 4,000 people in IDEA services (IHC's service arm) that include residential care, supported living, employment and community

¹ We use 'people with intellectual disability' as the officially recognized term in New Zealand. We acknowledge 'people with learning disability' as the term used by People First New Zealand, Nga Tangata Tuatahi.

participation and inclusion, support for families and specialist services, and through Accessible Properties (a subsidiary company of IHC) are New Zealand's largest non-government social housing provider.

Through our charitable arm IHC raises awareness and advocates for the rights of over 50,000 people with intellectual disability at both a national and an international level. This includes an extensive advocacy programme, a one to one volunteer programme and the country's largest specialist intellectual disability library.

3. Replacing the MWE permit and a wage supplement alternative

IHC has long advocated for changes to the MWE scheme in order to redress the discrimination and unfair practices that occur, including in submissions to the Annual Minimum Wage review. This has taken place in the wider context of people with intellectual disabilities receiving a fair wage, having an adequate standard of living and social protections.

3.1 MWE scheme

The MWE was put in place in 2007 after the repeal of the Disabled Person's Employment Promotion (DPEP) Act.

People with intellectual disabilities make up the majority of the approximately 900 disabled people who currently have MWE permits. By far the greatest number of people with MWE permits work in Business Enterprises with only 3-4% working outside Business Enterprises or disability support organisations.

More than 70% of those having a MWE exemption earn less than five dollars an hour 25% of those receiving less than \$1.99 for an hours work (both are before tax rates). The contrast of these numbers is now even greater with the increase this year of the minimum wage to \$17.70 an hour. Most also rely on the income support in the form of the Supported living Payment (SLP). New Zealand has a way to go in people with intellectual disabilities being paid fairly and having the same rights for a minimum wage as other employees.

The MWE scheme was a product of its time and has not kept pace with changes in policies, practices and contemporary understandings of disability employment rights. Additionally, despite the original intent of the Scheme there have been problems with implementation. These have included

- Subjective processes using different wage assessment tools that have resulted in inconsistencies in the granting of MWEs and a deficit rather than a strength based focus.
- Lack of knowledge and expertise among Labour Inspectors leading to difficulties in being able to adequately verify employer's wage assessment.
- Situations where people with intellectual disabilities have been denied their right to have a union representative or an advocate of their choice when seeking to review their MWE or where there are changes in their job or workplace.

3.2 Changes require more than a single wage supplement alternative

IHC acknowledges that the wage subsidy approach attempts to provide disabled workers with job security and rewarding work alongside ensuring that every working age New Zealander is paid at least the minimum wage. However, a broader rather than a single solution option is required for sustainable changes that are consistent with transformations in universal and disability support systems and evidenced based policy and practice.

To build confidence and trust for people with intellectual disabilities, families and service providers, changes and alternatives need to be adequately resourced. This includes providing transition funding to assist the sector to move to a new system and addressing the funding shortfall in the sector.²

Further work needs to be undertaken in the context of wellbeing and improving employment opportunities and outcomes for people with intellectual disabilities. A series of measures and initiatives need to be considered and linked. These involve government:

- making a greater investment in developing *social enterprise models* that are underpinned by a commitment to employing people with intellectual disability and paying fair wages;
- making existing funding for *microbusiness* more accessible with change current profitability requirements so they are more compatible with actual business case put forward;
- increasing access to *employment support/supported employment services* and awareness of the *practical application of 'reasonable'*
- increasing access to and funding available for *personalised community participation programmes*.
- Increasing the amount the people can earn before the abatement rate on the SLP starts.

3.3 Proposed wage supplement approach

Given that the utility a wage supplement approach should be considered through a broader lens as outlined in section 3.2, it is premature to respond in detail to most of the questions asked (4-11). In considering the advantages and disadvantages of a wage subsidy approach IHC makes the following general points

- People with intellectual disabilities who are currently working for less than the minimum wage and their families need reassurance that they will have meaningful work, community participation activities of their choice.
- While the discussion document gives some costings and alternatives to show that a wage subsidy will not impact on benefits or reduce income these are insufficient information to allay fears that people may be worse off.

² Funding and financial analysis: New Zealand Disability Support providers (November, 2018), report by Deloitte for NZDSN.

- There are a number of potential pitfalls in a wage subsidy approach that include
 - Disincentives for people to work more hours, take on extra responsibilities or change employer.
 - Employers may be less likely to employ people with an intellectual disability without a wage subsidy.
 - A wage supplement becoming a default position for people with intellectual disabilities rather than greater efforts being undertaken to get better employment opportunities and outcomes.
 - Inconsistencies in meeting New Zealand's obligations the New Zealand under the UNCRPD and New Zealand Disability Strategy (NZDS) with regard to employment rights, reasonable accommodations and the principles of proportionality so that large numbers of disabled people are not congregated in one setting.

We also note that the use of Schedule 8 Part 25 clause 44 of the Social Security Regulations is suggested as a possible pathway to ensuring that people are not disadvantaged financially. This section allows for application to be made to exempt all or part of income earned by severely disabled persons to be disregarded as chargeable income for benefit purposes. In our experience this is a poorly understood and implemented provision. There is also insufficient data on how this is currently working as we do not know how many people have an income exemption.

4. Release of IHC submission

There are no parts of IHC's submission we would not want released if a request for information was made under the OIA.