



CPAG 2023 Policy Brief on relationship income rules

Remove the blocks to whānau wellbeing generated by outdated relationship income rules

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VISION

All tamariki will grow up surrounded by loving, thriving whānau within supportive communities where there are resources, opportunities and systems to enable them to live self-determined lives and futures.

CPAG acknowledges that tamariki Māori and whānau have unique rights as tangata whenua, affirmed within He Whakaputanga and Te Tiriti o Waitangi. The significant inequities in well-being outcomes and child poverty for tamariki Māori are the result of ongoing colonisation, systemic racism and neglect. Reducing child poverty in Aotearoa requires our country to address the inequitable distribution of power and resources that prevents Māori from flourishing.

ISSUES — THE CURRENT REALITY

Benefit recipients, including parents and caregivers of children, are often denied the opportunity to seek love and supportive partnership, leading to forced social isolation; and/or they are pressured to (re-)partner without having the time to be certain that the relationship is worthy of their trust, and such pressure to commit potentially puts children and families in danger of financial and other abuse.

People already in committed relationships who experience job loss or sickness may be entitled to little or no income support, because of partner income. If both qualify for a welfare benefit their entitlements are reduced to even less than the already inadequate entitlements for single people.

These outcomes – forced isolation and/or forced financial partnership for single benefit recipients, and little-to-no relief for couples – reflect the penalties for benefit recipients in a marriage or a de facto relationship. Sole parent benefit recipients face:

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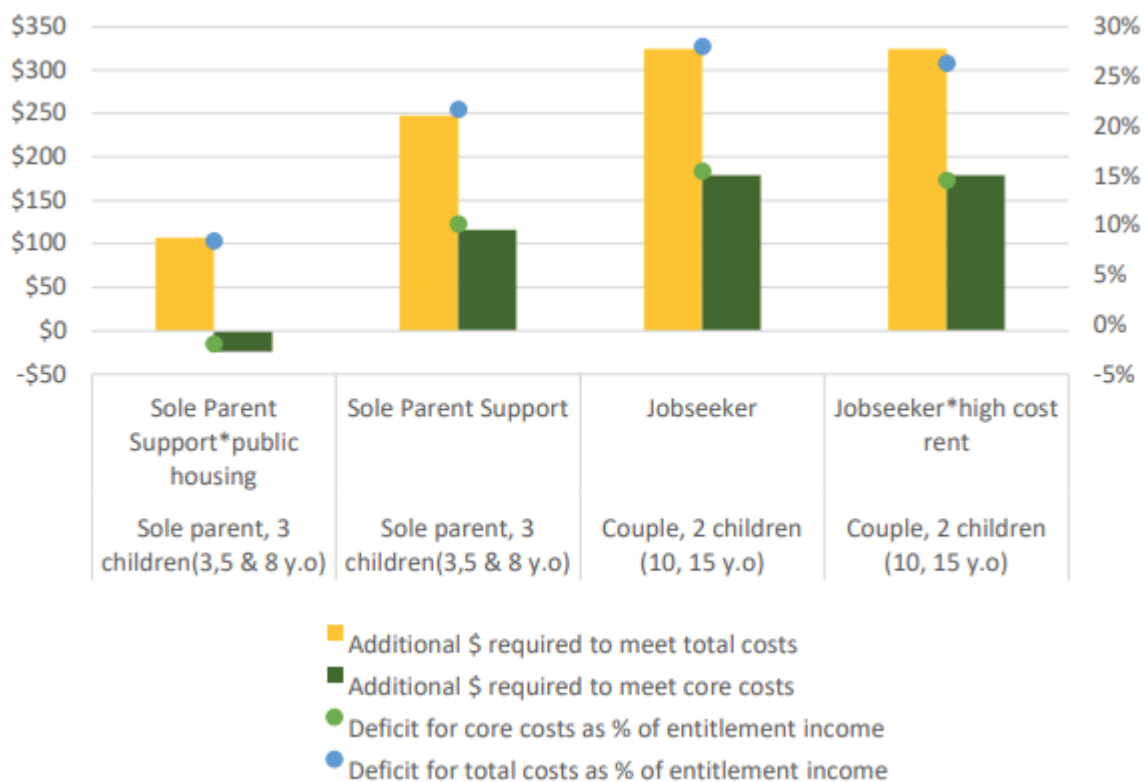
- the state’s inappropriate and ambiguous definition of de facto relationships;¹
- the risk of investigation and prosecution for benefit fraud if MSD disagrees with the benefit recipient’s understanding of their own relationship.

The welfare system’s harsh treatment of couples

There are severe financial implications for benefit recipients who enter or who are already in a marriage or a de facto relationship.

In principle we should load tax on things we want less of. Good relationships promote vital wellbeing and yet, as recent modelling from CPAG shows, couples on benefits suffer the biggest gaps between their basic expenses and entitlement income compared with other types of family grouping,² as shown in the figure below.

Weekly deficits for model households with 2 or more children estimated in quarter 2, 2023. (Note this graph shows couples with 2 children compared with sole parents with 3 children; couples with 3 children have even greater deficits not shown here)



The welfare system should not influence the decisions people make about their relationships. In contrast, rules for taxation and ACC regard people as individuals, irrespective of whether they are in a couple or not. These Government double standards are clearly discriminatory against people within the welfare system, many of whom are particularly vulnerable.

If two beneficiaries are deemed to be in a relationship, their single person rate of benefit is cut to the lower married person rate. For example, if they are both on the supported living payment their combined income falls by \$116 a week (April 2023). They would be entitled to

an extra \$32 if they had children. Two sole parents sharing a house but deemed to be in a relationship would see their core benefits drop in total by a huge \$341 per week.

Even if a sole parent's new partner has a very low income, they are expected to provide for the parent and the children. As the Welfare Expert Advisory Group put it: the social welfare system's "financial penalty for partnering is significant."³

This has a number of consequences:

1. Couples who depend on two incomes to pay the bills can find themselves forced into hardship when one or both loses paid work or becomes sick and cannot remain employed. This stress can lead to relationship breakdown.

One sole mother on the Supported Living Payment reported on social media:

*"My last relationship 7 years ago ended [because] I had to work because his income was so small, had a complete physical & mental breakdown because I shouldn't be working, & we had to break up. My sons were devastated, we all were. WINZ destroys families."*⁴

2. It provides a barrier to beneficiaries (re)partnering,⁵ may be unduly influencing partnering decisions, and "disincentivise[s] family relationship building which is good for both adults and children".⁶
3. It denies people for whom paid work is impossible – some parents and some disabled people – the right to be financially independent from their partner.

Problematic de facto relationship definitions

The Welfare Expert Advisory Group (WEAG), in 2019, highlighted that "the rules for determining ... whether a relationship is 'in the nature of marriage' ... are not working and are causing **considerable harm**. The definition of a relationship is unfair and does not reflect how relationships actually form".⁷ (Emphasis added.)

Ambiguous "nature of marriage" definitions, and their misinterpretation, lead to a combination of poor outcomes that include: unjust fraud investigations, potential prosecution, loss of income, debt and even imprisonment.

Relationship status affects a family's eligibility for social welfare benefits – someone considered to be in a de facto relationship cannot receive Sole Parent Support, for example.ⁱⁱ But what officially constitutes a de facto relationship is unclear, and its interpretation is both inconsistent and often extremely inappropriate.

For example, Ministry of Social Development staff have on occasion decreed that simply dating means a couple is in a de facto relationship.⁸ This means that a benefit recipient who may have casually dated someone for just a few weeks after meeting them is expected to hand over all financial control to the person they are dating, if said person is in paid work.

ⁱⁱ Problematic social welfare treatment of relationships also affect people without children, particularly those who receive the Supported Living Payment, including disabled people.

Meanwhile, said person is expected to take full financial responsibility not only for the benefit recipient but also for that person's dependent children (if they have any).

Some benefit recipients specifically avoid going on dates, as they fear prosecution and/or vital income support being cut off for themselves and their children before they and their partner are ready to commit to "marriage-like" financial inter-dependency.

Half (51%) of all 1,376 benefit-receiving single mothers and non-binary parents who answered the 2022 Mako Mama – Mangopare open online survey reported "avoiding dating and/or entering a relationship, including living with someone" because of their benefit payments. The figure was higher for the subset of sole parents who are disabled (57%).⁹

Others report that WINZ can prevent them from dating, even if they wish or try to, as these reports on social media show:

"Have fallen in love with someone who is in love with me. We don't intend to live together & can't support each other financially. So far WINZ says it's 50/50 if we will be allowed to date or not. (on Supported Living Payment with dependent children)"

"A friend [...] was a solo mum – met someone, they got engaged, no sex or living together or sharing finances (Christian) and Winz had a [tantrum]. It's archaic. Makes no sense"¹⁰

The rules and their arbitrary, various interpretations (as well as the punitive financial implications of re-partnering) are likely to contribute to the high levels of loneliness for sole parents: in 2021, 27.2% of sole parents felt lonely some or most of the time, compared with 16.6% of couples with children.¹¹

Long-term loneliness is "a significant public health challenge" as the long-term "freeze, flight or fight" hypervigilance that it leads to "can create hormonal imbalances, disrupt sleep, elevate feelings of panic and anxiety, weaken our immune system, heighten the risk of high blood pressure, high cholesterol, heart disease, depression and dementia" and shorten life expectancy.¹²

WEAG noted that, conversely, the relationship definition interpretations are also putting unnecessary stress on women to commit to a live-in relationship even when they were unsure whether it was in their own and their children's best interests.¹³

The rules therefore put the safety and wellbeing of women and children at risk, by (a) pressuring them to live with partners they may not trust and (b) contributing to financial power imbalances between partners, which can cause tension and even offer opportunity for abuse of power via financial control and coercion. Financial independence is crucial when our bank balances control our access to everything.¹⁴ Victim-survivors report financial abuse has a "significant impact" and puts considerable constraints on the ability to find safety for themselves and their children.¹⁵

It is likely that the majority of women and children put in these impossible situations are already dealing with the trauma and distress of prior family violence, which is often the reason they are sole-parent families in the first place. The majority of Mako Mama –

Mangopare single-parent respondents had experienced intimate partner violence, mostly from the other parents of their children, and the survey reported particularly high intimate partner violence incidence for low-income single mothers.¹⁶

Unjust fraud investigations and potential prosecution

CPAG has been involved in several reports on unjust fraud investigations about relationships. The latest one, in 2021, [*The Stories of Kathryn and her Daughters: Intergenerational harm due to the investigation and imprisonment of a parent for alleged “relationship fraud”*](#) outlines a historical case with discussions of its implications for policy.

Reasons for investigation

The ambiguity of the de facto relationship definition can lead to benefit recipients (usually women, as they are usually the sole caregivers in sole-parent families) being investigated and prosecuted inappropriately.

“I was in an LDR [long distance romantic but non-financial relationship] and he visits for 3 weeks in every year, I got doxxed in by my ex-husband and WINZ first demanded [my boyfriend’s] income details and then I had my benefit frozen for 3 weeks. – social media report”¹⁷

It is likely that the majority of sole parents investigated for benefit fraud due to relationship status are women who have already experienced intimate partner violence (IPV). Although the courts ordered MSD not to do so in the mid-1990s, MSD in 2019 was still investigating women for benefit fraud when their alleged relationship had broken down due to violence¹⁸ (relationships which include a certain level of violence have been deemed by the courts to not be “in the nature of marriage”¹⁹). Investigations can be generated by anonymous tip-offs, which Work and Income still encourages,²⁰ leaving open the possibility of manipulation by vengeful and abusive ex-partners. Allegations themselves can be a form of abuse – the state effectively enables abusers by offering further opportunities to deliberately abuse.

Effects of investigations

Any investigation can be traumatic, irrespective of the outcome. In contrast to the criminal justice system, the onus in the welfare system during these investigations is on the beneficiary to prove that they are innocent. Investigation (even when it does not lead to prosecution) can cause harm, anxiety and distress to families in the following ways:

- opportunity for abuse by former partners via malicious allegations (as above)
- invasion of privacy.

A 2019 Office of the Privacy Commissioner (OPC) inquiry found the MSD “systematically misused its investigatory powers while pursuing benefit fraud, unjustifiably intruding on the privacy of many beneficiaries”. For example: “In one instance, a beneficiary described to us how MSD obtained, from a telecommunications company, an intimate picture shared by that individual with a sexual partner. The photograph was then produced at an interview by MSD investigators seeking an explanation for it.”²¹ Such attempts to humiliate are harassment,

and such treatment breaches the fundamental human rights of its subjects and their children.²²

If payment is “frozen” as in the example above, even temporarily, then families may find themselves with private debts and bills arrears, even after they’ve had a catch-up payment. Often worse financially, fear of losing their benefit may prevent individuals from asserting their rights, and challenging a decision or outcome.

In some cases, mothers accused of relationship fraud may be threatened with prosecution unless they accept whatever debt the MSD say that they owe. Thus, even if they do not result in a prosecution, the investigations themselves result in a high cost to beneficiaries.

Prosecution: conviction, loss of benefit, home detention and/or prison

Those prosecuted are advised to plead guilty and show remorse in order to get a reduced sentence. There have been cases where women (whether or not they are innocent) are told that their options are to plead guilty and receive a home detention sentence, or plead not guilty and go to prison. Community sentence and/or home detention as well as a criminal conviction are a significant price to pay for a disputed overpayment.

While the numbers of women sent to prison for benefit fraud (all types) have reduced, a number are still sent to prison – many of them mothers, with grave consequences for their children, some of whom will be put in state care.

One of the more widespread ways that children are impacted is by the loss of income which may result from a benefit cut or the termination of a payment altogether.²³

Some mothers have been both imprisoned and burdened with impossible debt, as reported in CPAG’s “Kathryn’s story”. A particularly large number of women in the 1990s and early 2000s were unjustly punished for alleged relationship fraud, and this has never been acknowledged or redress offered. Māori are inequitably impacted by investigations and prosecution regarding relationship status.²⁴

Increase in anxiety and mistrust of the state – for good reason

Fear, isolation and mistrust of the state (social and political atomisation) emerge as a result of ambiguous and subjective relationship definitions that do not align with the complex realities of people’s lives, and the punitive way they are applied, which can be experienced as malicious.²⁵

Benefit recipient families are already living in precarious circumstances due to inadequate income and associated stresses, and even for those who are not investigated, the lack of transparency and possibility of “relationship fraud” allegations causes harm and fear, including for children.

As a Mako Mama – Mangopare focus group participant summed it up:

“It’s almost impossible and terrifying to date someone while I’m on a benefit, they’re suddenly expected to start financially supporting you and your child if they start

sleeping over, people use dobbing you into WINZ as threats! Being investigated by WINZ is an absolutely terrifying prospect, it's not worth it, so you stay single."

BARRIERS REQUIRING POLICY ACTIONS

The issues above are explicitly created by the state and its agencies. Researcher Rosa Gavey examined MSD's actions in three areas and found its actions in all three areas to be harmful:²⁶

- Its decision-making process for determining benefit recipients' relationship status, including the misapplication of the court case (the "Ruka" case) which determined that a de facto relationship marred by extreme levels of physical, psychological and financial violence is not considered to be a "relationship in the nature of marriage".
- Its investigation process and internal practices for accessing benefit recipients' personal and private information (as per the 2019 Office of the Privacy Commissioner report²⁷).
- Its prosecution and debt recovery processes.

Poor policy

The Welfare Expert Advisory Group (WEAG) identified that the relationship rules were 'not working' but there is no evidence of movement towards WEAG's recommendations that the welfare system "allows more time before deeming a relationship to have formed" and does "not deem two people who do not live together as being in a relationship for the purposes of welfare support".²⁸

Relationships are volatile and can change over time, making the timeline of when (if ever) a benefit recipient becomes financially 'dependent' on a partner impossible to determine, particularly from the outside.

Power imbalance in MSD investigations

Legal aid is not available to respond to MSD investigations. Most Community Law Centres do not have the capacity or capability to assist, and impoverished beneficiaries cannot afford a private lawyer, even if any were able and willing to assist. WEAG identified this power imbalance, and, while noting MSD's new three-tiered approach to responding to fraud allegation (intervene, facilitate and, as a last resort, investigate), stated that the principles of natural justice need to be paramount at each step. However, they are not.

The use of MSD's own, internal Benefits Review Committee and Social Security Appeal Authority is not impartial.

While it is positive that there has been a reduction in the numbers of people being investigated and prosecuted and imprisoned in recent years, there is no guarantee that this will continue in future while natural justice is not allowed.

RECOMMENDED POLICY ACTIONS

“Relationship” definition

1. Move to individual rates of entitlement for benefits for unemployment, disability, and sickness, which do not change with marital status. Create individual thresholds for extra earnings for each person who qualifies for a benefit.
2. For sake of consistency, clarity and humanity, the “relationship” definition and interpretation used by MSD should be aligned, and be as close as possible, to the Property Relationships Act definition and its interpretation used by the justice system for the purposes of allocating resources in the event of a break-up.²⁹ Benefit recipients should not be considered in a de facto relationship unless
 - a. They live with a partner and have a child with that partner (ie they are parents of the same child); or
 - b. They agree they live with a partner and they agree they have lived together for more than 3 years; and they also agree that the relationship is not marred by extreme levels of psychological physical and financial violence.

Investigations

3. In order to reduce malicious allegations, disregard anonymous allegations and allegations made by former partners and co-parents of the person subject to the allegations.
4. Abolish the use of criminal conviction and prison sentences for infringement of welfare-system relationship rules for caregivers of dependent children.
5. Ensure MSD has discretionary power to waive all relationship-related debts, re-align MSD debt-waiving ability to that of Inland Revenue, and make this alignment permanent.
6. Mandate an independent assessment of the impact of current MSD investigative processes on individuals, whānau and families, including children; and use this to ensure investigative processes do not cause undue harm.
7. Hold an official independent investigation into the harms done to the many families accused of relationship fraud, especially in the 1990s and early 2000s. The independent investigation should have the authority to determine and order debt forgiveness. The process must be respectful of the huge vulnerability of affected women and children.
8. Abolish the Benefits Review Committee, establish a review process independent of MSD, and provide beneficiaries with legal aid to assist them in preparing their cases.

IMPACTS AND INDICATORS

If implemented, these actions would be steps towards moving Aotearoa to be a nation where all children and families flourish free from poverty.

- The welfare system does not influence decisions people make about their relationships.
- Prosecution and debt recovery processes are in line with principles of natural justice.
- Enhanced wellbeing for children’s caregivers (indicator: less loneliness reported by sole parents in StatsNZ Wellbeing Indicators).
- Children in couple families supported by a benefit are not disadvantaged.

Updating relationship rules for welfare is relevant to:

- The Crown meeting Te Tiriti o Waitangi obligations and New Zealand meeting its obligations under the UN Declaration of Human Rights.
- Meeting targets for UN Sustainable Development Goal 5: “Gender equality” including “End all forms of discrimination against all women and girls everywhere” and Goal 10: “Reduced inequalities,” including empowering and promoting the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status”.³⁰
- The national vision “that New Zealand be the best place in the world for children and young people”.³¹

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