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Social Unemployment Insurance – response to SUIGG feedback on key social insurance design issues

Date:	30 July 2021	Priority:	High
Security classification:	In Confidence	Tracking number:	2122-0152

Information for Ministers	
	Deadline
Hon Grant Robertson Minister of Finance	4 August 2021
Hon Chris Hipkins Minister of Education	
Hon Carmel Sepuloni Minister for Social Development and Employment	
Hon David Parker Minister of Revenue	
Hon Stuart Nash Minister for Economic and Regional Development	
Hon Michael Wood Minister for Workplace Relations and Safety	

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Jivan Grewal	Policy Director, Employment, Skills and Immigration Policy	Privacy of natural persons	✓
Lee Gerrard	Policy Analyst, Ministry of Social Development	-	-

The following departments/agencies have been consulted
The Treasury, MSD, IRD, DPMC

- Minister's office to complete:
- | | | |
|--|---|------------------------------------|
| <input type="checkbox"/> Noted | <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Overtaken by Events | <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen |
| | <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



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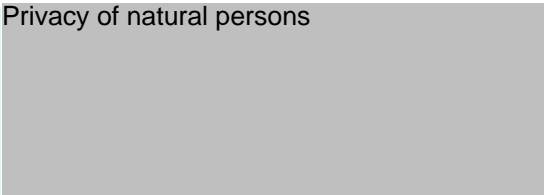
Social Unemployment Insurance – response to SUIGG feedback on key social insurance design issues

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Purpose

The purpose of this note is to provide Ministers with the Working Group's further advice on a number of key social insurance design issues for social unemployment insurance. SUIGG Ministers are meeting on 4 August to discuss these issues.

Privacy of natural persons



Jivan Grewal
**Policy Director, Employment, Skills and
Immigration Policy**
Labour, Science and Enterprise, MBIE

30 / 07 / 2021

Background

1. The Social Unemployment Insurance Governance Group (SUIGG) Ministers met on 5 July to discuss the proposed settings for a social insurance scheme to consult with the public. At the meeting, Ministers directed the Working Group to report back on a number of issues. Following the meeting, the Working Group received further feedback from Ministers. SUIGG Ministers are meeting on 4 August to discuss these issues.
2. To support that meeting, the Working Group has prepared the attached note for Ministers (see Annex 1). The note outlines advice on a number of issues and notes where further advice will be provided. Advice provided in the attached note covers:
 - Notice periods and bridging payments
 - Extensions to the base duration for training or rehabilitation
 - Contributions history requirements
 - Coverage of self-employed workers
 - Minimum replacement floor
 - Obligations and consequences for non-compliance
 - Levying and coverage of visa holders
 - Eligibility for the In-Work Tax Credit

Next steps and further advice

3. The Working Group will provide additional advice prior to the Ministerial meeting on 4 August on the following issues raised by Ministers:
 - Why/when claimants may be able to access both ACC weekly compensation and social insurance at the same time.
 - Why 20% loss was chosen as the eligibility threshold for multiple job holders.
 - Further information about case management and support services.
 - Further information on the dispute resolution process.
 - Funding of the scheme.
 - Evidence required when making determinations on conflicts of opinion.
4. Officials will also provide advice to Ministers on the resourcing implications for the next phase of the work, ahead of the Ministerial meeting on 4 August.
5. On 12 August the Working Group will provide the revised costings and a revised discussion document reflecting the decisions made in this paper. This paper will also outline the next steps for the finalisation and publication of the discussion document; and proposals for the communications campaign to support the consultation. Officials will also provide a draft Cabinet submission, for Ministerial consultation, seeking Cabinet agreement the discussion document.

Annexes

Annex One: Briefing to the Social Unemployment Insurance Governance Group Ministers.

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To: Social Unemployment Insurance Governance Group Ministers

CC: Richard Wagstaff, President, New Zealand Council of Trade Unions

Kirk Hope, Chief Executive, Business New Zealand

From: Social Unemployment Insurance Working Group

Date: 30 July 2021

Briefing: Further advice on key social insurance design issues

Purpose

1. The purpose of this note is to provide the Social Unemployment Insurance Governance Group (SUIGG) Ministers with further advice on a number of issues to inform the policy design of social insurance. For each issue, this note seeks agreement on options to include in the draft discussion document for public consultation.

Executive Summary

2. The SUIGG met on 5 July to discuss the proposed settings for a social insurance scheme to consult with the public. At the meeting, the SUIGG directed the working group to report back on a number of issues. Following the meeting, the working group received further feedback from Ministers. SUIGG Ministers are meeting on 4 August to discuss these issues. To support that meeting, this note outlines advice on a number of these issues and notes where further advice will be provided.

Notice periods and bridging payments

3. Ministers expressed concerns over the combined impacts of a four-week notice period and four-week bridging payment on small businesses. While there are cost implications for firms, these provisions are important to reduce the risk of unnecessary redundancies, and reduce the overall cost of the levy.
4. The working group recommends both a minimum four week notice period and a subsequent four-week bridging payment paid at 80% of normal wages. These provisions would apply to all redundancies and medical dismissals, not just those eligible for social insurance, and scaled appropriately for fixed term appointments. The notice requirement would be satisfied by existing contracted provisions that meet the proposed minima, whereas the bridging payment would be additional to any current contracted arrangements. Claimants who have health conditions or disabilities who remain attached to their job would not receive a bridging payment unless they were subsequently medically dismissed or made redundant by the employer.

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Extensions for training and rehabilitation

5. Ministers expressed an interest in options that allow for the extension of social insurance for people undertaking training or rehabilitation. Officials have previously advised Ministers about the risks of extension for training (2021-4319 refers) but note that allowing a sufficient period for approved training (in areas of skills shortages) or rehabilitation could improve labour market outcomes. The working group recommend that any ability to extend entitlements is supported by clear principles to guide extensions to mitigate the risks identified.
6. There are a number of options for the length at which entitlements could be extended for. If the SUIGG wish to allow for extensions for training and rehabilitation, the working group recommend enabling social insurance to be extended to a maximum of 12 months entitlement.

Contributions history requirement

7. The working group has previously proposed a contribution history requirement of three months over a 12-month period preceding the claim (including parental leave). Ministers expressed a preference for a six-month contribution history requirement over a 12-month period to align with the potential duration of cover and to align with similar schemes (such as the Paid Parental Leave eligibility requirements). Ministers also sought advice on mitigations to allow those who previously had sufficient contributions but who for some reason were not able to meet the six-month contribution requirement.
8. A six-month contribution history requirement for social insurance will likely exclude more workers than a three-month contribution history requirement. This would mostly impact non-standard workers many of whom are Māori, Pacific peoples, women and younger workers. However, a six month requirement would help maintain integrity of the scheme. To mitigate the potential exclusions identified, the working group's preferred option is provisionally having a six-month contribution history requirement over the 18-month period preceding the claim. The contributions could be across multiple employers and include statutory parental leave including Paid Parental Leave and unpaid leave to mitigate against gender bias.

Coverage of self-employed

9. Rather than covering all self-employed, the working group initially proposed that the discussion document include an option for the scheme to cover "dependent contractors" as they resemble employees. Ministers requested advice on a scheme that is compulsory for dependent contractors and optional for all other self-employed workers. The working group had identified three key options for the coverage of self-employed in the scheme (detailed further in Annex Two):
 - excluding all self-employed
 - compulsorily including all self-employed
 - compulsorily including dependent contractors with an additional opt-in scheme for other self-employed workers.

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10. Given the complexity and risks associated with each potential option, the working group recommend that the discussion document indicate that the Forum's intention is that contractors who resemble employees be included within the ambit of the scheme, while noting the complexities of such inclusion. The discussion document would highlight possible approaches to self-employed coverage and the implications of the various scenarios. It would seek feedback from the public on possible ways to meet the Forum's intention while mitigating some of the risks and complexities and would indicate that final decisions would be informed by the work being undertaken as part of the 'Better Protections for Contractors' work.

Minimum replacement floor

11. The working group proposed that there be no minimum replacement floor for social insurance. This means that social insurance claimants will receive up to 80% of their pre-displacement income, regardless of their previous income level up to the cap of \$130,911 (aligning with ACC). Ministers expressed interest in exploring a minimum replacement floor to provide those on the minimum wage with greater than an 80% replacement rate and sought advice on options for how to provide a minimum replacement floor.
12. There are a number of options for a minimum replacement floor (outlined in Annex Four). However, the working group continues to recommend that there be no minimum replacement floor. An 80% replacement rate provides a generous level of income smoothing whilst still maintaining a financial incentive to work and equity with other systems (most notably ACC). Those who struggle to meet their fixed outgoing costs on 80% of their income may have additional access to support through the welfare system (see Annex Five).

Obligations and consequences for non-compliance with obligations

13. The working group has proposed there be work obligations tied to the receipt of social insurance. Work obligations would include, actively looking for work and demonstrating job search activity, accepting suitable offers of employment and completing return to work plans. These obligations are similar to many overseas schemes. Work obligations could be waived or reduced based on work capacity or for those undertaking approved training.
14. The working group had also proposed that there be small financial sanctions (e.g. a 10% reduction in payments) for social insurance claimants who unreasonably failed to meet or re-comply with their obligations. Ministers expressed an interest in receiving advice on using an ACC style approach to financial consequences for non-compliance. An ACC style approach would mean payments could be suspended as a last resort for serious cases of non-compliance. The working group recommends using an ACC style approach but setting a high threshold for suspension and allowing claimants sufficient time to re-comply with their obligations before any suspension takes effect. The intent is that, in most cases payments are not suspended as either obligations are met, or re-compliance occurs before suspension.

Levying and coverage of visa holders in New Zealand

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15. Ministers asked for more information on which visa holders will be included in the scheme and who pays the levy. The working group recommends that all visa holders pay social insurance levies on their income while working in New Zealand, even though, it is proposed that not all will have access to the scheme. If certain visa holders were excluded from contributing to the scheme, they would cost less to hire. This would disadvantage New Zealand job seekers as migrant workers become more attractive to hire.
16. The working group considers that working holiday makers, international students, and other temporary work visa holders would not be eligible for coverage from the scheme. With the intent being that those temporary visa holders should either have enough to support themselves while in New Zealand (where it is a condition of their visa) or should look to return home.

Eligibility for the In-Work Tax Credit

17. Ministers expressed concerns about the potential inequity of allowing social insurance claimants to receive the In-Work Tax Credit (IWTC) given the IWTC cannot be received by those on a main benefit. The working group has proposed that, for the purposes of public consultation, social insurance claimants be able to receive the IWTC while in receipt of social insurance, aligning with ACC weekly compensation. However, recommend considering this further in light of the outcome of the ongoing review of Working for Families.

Next steps and further advice

18. The working group will provide additional advice prior to the Ministerial meeting on 4 August on the following issues raised by Ministers:
 - Why/when claimants may be able to access both ACC weekly compensation and social insurance at the same time.
 - Why 20% loss was chosen as the eligibility threshold for multiple job holders.
 - Further information about case management and support services.
 - Further information on the dispute resolution process.
 - Funding of the scheme.
 - Evidence required when making determinations on conflicts of opinion.
19. Officials will also provide advice to Ministers on the resourcing implications for the next phase of the work, ahead of the Ministerial meeting on 4 August.
20. On 12 August the working group will provide the revised costings and a revised discussion document reflecting the decisions made in this paper. This paper will also outline the next steps for the finalisation and publication and the discussion document; and proposals for the communications campaign to support the consultation. Officials will also provide a draft Cabinet submission, for Ministerial consultation, seeking Cabinet agreement the discussion document.

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Recommendations

The Social Unemployment Insurance Working Group recommends that you agree the following settings are proposed in the social insurance discussion document:

Notice periods and bridging payments

1. **Agree** that the discussion document propose that employers be required to provide a minimum of four weeks' notice to a worker of a pending redundancy and provide notification to the scheme at the same time

Agree / Disagree
2. **Agree** that the discussion document propose that employers be required to pay a four-week bridging payment based on 80% of the employees normal pay in the cases of redundancy or medical dismissal, and scaled as appropriate for fixed term appointments

Agree / Disagree
3. **Agree** that the intent be that any bridging payment also apply to all workers, including those not eligible for social insurance (e.g. migrants and those who do not meet the contributions requirements)

Agree / Disagree
4. **Agree** that the intent be that bridging payments are covered by the scheme in cases where an employer fails to pay to avoid workers being disadvantaged, but that the scheme be able to recover this amount from the employer.

Agree / Disagree
5. **Agree** to propose a bridging payment rebate scheme for employers who help workers obtain their next job

Agree / Disagree

Extensions for training or rehabilitation

6. **Agree** that the proposal be that social insurance entitlements be extended for approved training or rehabilitation

Agree / Disagree

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7. **Subject to your agreement to recommendation 6, agree** that extensions allow for a maximum period of entitlement of 12 months including the base duration

Agree / Disagree

Contributions history requirement

8. **Agree** provisionally that the proposal be a contribution history requirement of six months over the 18-month period preceding the claim (including periods of parental leave)

Agree / Disagree

Coverage of self-employed

9. **Agree** to outline the Forum's intention to cover contractors who are similar to employees within the Scheme in the discussion document for public consultation

Agree / Disagree

10. **Agree** that the design of the coverage of contractors be informed both by public feedback on the discussion document and the direction of travel of the 'Better Protections for Contractors' work

Agree / Disagree

11. **Note** that the discussion document will outline three possible high level approaches to the coverage of such contractors and the implications of each approach

Noted

Minimum replacement floor

12. **Agree** that the proposal be that the minimum replacement floor be 80% of pre-displacement income

Agree / Disagree

Consequences for non-compliance with obligations

13. **Agree** that the proposal be that social insurance payments could be suspended as a last resort for serious cases of non-compliance with obligations

Agree / Disagree

Levying and coverage of visa holders

14. **Agree** that the proposal be that all visa holders pay social insurance levies on their income, regardless of whether they can claim social insurance

Agree / Disagree

15. **Agree** that the proposal be that only resident class visa holders are eligible to claim from the scheme, other than the bridging payment

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Eligibility for the In-Work Tax Credit

16. **Agree** that the initial proposal be that social insurance claimants can receive the In-Work Tax Credit (where otherwise eligible) prior to the outcome of the review of Working for Families.

Agree / Disagree

Privacy of natural persons

Jivan Grewal
Lead, Social Unemployment Insurance Working Group

30 / 07 / 2021

Hon Grant Robertson
Minister of Finance

..... / /

Hon Chris Hipkins
Minister of Education

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..... / /

Hon Stuart Nash
Minister for Economic and Regional Development

..... / /

Hon Michael Wood
Minister for Workplace Relations and Safety

.. / /

Background

17. The Social Unemployment Insurance Governance Group (SUIGG) met on 5 July. The purpose of this meeting was for the Social Insurance Tripartite Working Group (the working group) to seek Ministers' and the wider SUIGG's agreement to the proposed settings of a Social Unemployment Scheme for the purposes of consulting with the public, and to present a draft discussion document for feedback (2021-4366 refers). Ministers were also provided with joint advice from officials, on where views diverge, where officials consider there are significant risks and trade-offs, and alternative options to consider (2021-4319 refers).
18. At the meeting, the SUIGG directed the working group to report back on a number of issues. Following the meeting, the working group received further feedback from Ministers on a number of issues. SUIGG Ministers are meeting on 4 August to discuss these issues. To support that meeting, this note outlines advice on a number of these issues and notes where further advice will be provided.

Notice period and bridging payments

19. The working group has previously provided advice on the benefits of having mandatory notice periods and bridging payments prior to entry to the scheme (2021-4366 refers). The working group's initial proposal was for a four-week notice period and that employer-funded bridging payments would cover the first four weeks of an employee's unemployment spell prior to their social insurance entitlements.
20. Ministers expressed concern about the cost impost on small firms arising from the combined effects of the notice and bridging payment requirements. Ministers sought further advice on possible ways to mitigate these impacts while maintaining integrity measures for the scheme.

The working group recommends the requirement of a four-week notice period prior to redundancy and medical dismissals...

21. The working group consider a four-week notice period sufficient to enable employees more time to look for work whilst also allowing adequate time for the scheme to assess ongoing entitlements to social insurance (ensuring payments can be made promptly).
22. Notice period requirements already exist in New Zealand. By law a redundancy requires that a reasonable notice period be given. Four weeks is the most common express provision in collective agreements (70% in the private sector and 61% in central government) but notice periods can be shorter (7% in the private sector and 2% in central government).
23. Where a contract does not include an express notice period, reasonable notice has been interpreted by the Courts to be the interval at which wages or salary is paid, but in many cases other factors have carried more weight, such as tenure, age and ability

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to find equivalent alternative employment and business size. Periods of from six months to two years have been considered reasonable, as have periods of one to two weeks. Similar process and notice considerations apply to medical dismissals.

24. Internationally, some countries have codified redundancy notice requirements, and in some cases scheme notification. Canada requires employers to notify people with at least three months tenure with the firm of a redundancy at least two weeks prior, or in lieu of such notice, provide two weeks wages at the regular rate. Finland and Germany require notice periods which increase according to tenure. Norway requires collective dismissals of at least ten employees within a period of 30 days to be notified.¹
25. The proposal to establish a minimum notice period of four weeks and scheme notification requirement could affect smaller firms more, and most likely employment arrangements with more vulnerable workers. The key benefit of a minimum notice period would be to give people more time to find their next job (likely those with less bargaining power and/or access to the Courts). Given that firms have the option of requiring an employee to work out their notice period, in most circumstances this will mitigate the cost impact. Notification would also enable the scheme to intervene early, particularly in the case of a mass-layoff.
26. For fixed term appointments including seasonal workers, and contractors, the notice period will have to be scaled if less than four weeks employment remain in the fixed term.

... along with a four-week bridging payment for those facing redundancy

27. While the proposed minimum notification period could support early job search and prevent some claims coming into the scheme, it is not expected to sufficiently prevent unnecessary (or sham) redundancies on its own.
28. Studies from Canada, the U.S., and Spain suggest that there is a weak association between social insurance schemes and layoff decisions. In some cases, terminations could be reclassified as redundancies, and in other cases firms could be less restrained in opting to make people redundant.²
29. It is therefore important that employers are appropriately incentivised to avoid unnecessary or sham redundancies, which can push up scheme costs and impact workers. However, at the same time it is important to ensure that the cost imposed on employers is not so great as to deter hiring, or incentivise unlawful constructive or unfair dismissals and disputes.
30. Existing redundancy compensation provisions could also help to disincentivise redundancies (particularly 'sham redundancies'). While not a legal requirement in New

¹ <https://eplex.ilo.org/redundancy-and-severance-pay/>

² A number of studies have found that the exit rate to unemployment increases when the employment condition for unemployment insurance eligibility is met. See Anderson and Meyer (1997). Unemployment Insurance Takeup Rates And The After-Tax Value Of Benefits. Quarterly Journal of Economics; Rea, S. A. (1998). Employment Spells and Unemployment Insurance Eligibility Requirements. The Review of Economics and Statistics; Jurajda, S. (2002). Estimating the Effect of Unemployment Insurance Compensation on the Labor Market Histories of Displaced Workers. Journal of Econometrics; Rebollo-Sanz, Y. (2012). Unemployment Insurance and Job Turnover in Spain. Labour Economics.

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Zealand, most collective agreements include provision for tenure-based redundancy compensation (79% in the private sector and 90% in central government).³ However, again, it is uncertain to what extent small firms include such a provision in Individual Employment Agreements.

31. Many countries with unemployment insurance schemes require redundancy compensation payments, though not all (e.g. Finland). In those that do, compensation payments vary in generosity by tenure, typically require a minimum tenure and are usually independent of unemployment scheme considerations. Some countries also impose a stand-down period for entry to social insurance. The stand-downs vary from a few days to a week (e.g. Canada).
32. The proposed employer bridging payment is considered to be an important scheme element for mitigating against unnecessary redundancies. It would:
 - cover a four-week period based on 80% of normal pay to cover a four week period prior to entry to the scheme
 - apply to all workers made redundant, including those not eligible for social insurance (e.g. migrants and those who do not meet the contributions requirement), to avoid employers orienting to other such employment approaches
 - apply to workers medically dismissed by the employer but not workers who initiate the end of their employment due to a health condition or a disability
 - be in addition to any negotiated redundancy compensation provision
 - be refunded to the employer to the extent it is unused in the event the claimant obtained a job within the four-week bridging period
 - be covered by the scheme in cases where an employer payment is not forthcoming to avoid workers being disadvantaged. In the case of an insolvency, for instance, the scheme would be nominated as a creditor and seek recovery of non-payment
 - be scaled for premature termination of fixed term appointments including seasonal workers if less than four weeks employment remain in the fixed term.
33. Employers would not be liable to pay a bridging payment for claimants with health conditions or disabilities unless the employment relationship is ended by the employer. A bridging payment would be payable if the employer initiated a separation at any point during or after the claim. Workers claiming social insurance for a health condition or a disability who remain attached to their employment would still be entitled to the full maximum duration (7 or 9 months).
34. The rationale for this approach is the payment may be a disincentive to hire people with health conditions or disabilities and this group can already face barriers to obtaining work. This group would need to use any remaining sick leave entitlements prior to entry to the scheme. There is a risk that some employers will coerce workers to end the employment relationship (constructive dismissal) to avoid the bridging

³ Blumenfeld, S., Ryall, S., Kiely, P. (2021). Employment Agreements: Bargaining Trends & Employment Law Update 2019/2020. Centre for Labour, Employment and Work, Victoria University of Wellington.

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payment. Worker protections in this area may need to be strengthened to reduce this risk.

35. It is anticipated that some of the cost of the bridging payment would offset an otherwise higher levy (representing around ~23% of claims costs depending on final costings and settings for duration). It therefore reduces costs for the great majority of employers while placing higher costs on those who create costs for laid-off workers and the scheme.
36. However, the bridging payment proposal would entail additional costs for employers. While small firms would tend to have redundancies infrequently, the bridging payments would entail lumpy costs for these firms. However, given the reduced incentives for employees to enforce their employment law obligations against unjustified dismissals (created by the financial support provided by the social insurance scheme), the working group considers that the benefit of such a payment outweighs the costs.
37. Other options have been considered, including establishing shorter bridging payment durations or establishing a legal standard and offences for sham redundancies (e.g. strict liability infringements). However, a shorter duration is unlikely to provide enough incentive to avoid employers fabricating redundancies, which would in turn result in increased claims numbers and levy cost. A firmer legal standard to mitigate sham redundancies is not considered a reliable option in itself to mitigate the risk, and would require additional resources to implement and administer.

Extensions to the base duration of social insurance for training and rehabilitation

38. The working group's current proposal for the base duration is a duration of either six months or eight months plus any bridging payment. The working group has previously outlined options for providing for extensions of social insurance on the grounds of training and rehabilitation, and options for not allowing extensions, including advice on the risks associated with extensions (2021-4319 refers).
39. Ministers expressed a preference to explore options for extendibility on the grounds of training and rehabilitation and sought further advice on extendibility options.

It is unclear how many claimants may need extensions to their social insurance entitlements for training or rehabilitation

40. Any options for social insurance extensions would increase the cost of the scheme but uncertainty about the number of claimants who may need extensions means the magnitude of these costs is unclear. The number of claimants is uncertain because it will be influenced by the need for training or rehabilitation which will need to be assessed at an individual level and the availability of appropriate courses and programmes.
41. The prevalence of adults (25-64 years) undertaking study, including training at any point is five to seven percent. A recent Motu study identified approximately 80 percent of adults studying are employed. Findings from the Household Labour Force Survey

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identified that among those currently studying about one-sixth left their job because it ended (includes redundancies but also dismissals and fixed term contract ends).

42. Canada recently introduced changes to their Employment Insurance (EI) to enable long tenure workers to undertake training while in receipt of the EI. In 2019-2020, 896 claimants undertook training, representing 0.2 percent of all long-tenured worker EI claimants (refer to Annex One for further detail).
43. Without existing trend data, it is difficult to estimate with any certainty what the uptake of additional training will likely be where individuals are being financially supported through social insurance. This will largely depend on the nature of the displacements being undertaken and the availability of job-relevant training.

Having the ability to extend social insurance entitlements to allow for training and rehabilitation could improve labour market outcomes...

44. Currently, people spend an average of four and half months on the Jobseeker Support benefit following displacement. But some may take longer to find work as they need to undertake training or rehabilitation that extends beyond the base duration due to significant skill gaps or more complex health issues.
45. There is evidence that Active Labour Market Policies (ALMPs), including training, can improve labour market outcomes if targeted to individual need and labour market demand. Training is generally effective over the medium to longer term and most effective for addressing significant skills gaps and structural mismatch with the labour market, while job search assistance and matching is more effective in the short term for people with a high probability of finding work. There is also strong evidence for many aspects of vocational rehabilitation⁴ for common conditions such as musculoskeletal, anxiety and depression if it is work-focused healthcare in combination with accommodating workplaces.
46. Most unemployment insurance schemes enable claimants to undertake training within the base duration period with obligations that they will continue to look for and accept suitable job offers or waive these obligations on the grounds the claimant is making satisfactory progress in training. Some schemes do extend duration on the basis of training (see Annex One for more detail on international jurisdictions).
47. Common across most international schemes that provide for training are requirements that the training:
 - is an approved course of education and through an approved provider
 - provides claimants with the skills to get a job in an occupation in the labour market
 - is not usually intended to meet the requirements of a bachelor degree or higher.

⁴ Vocational rehabilitation is a managed process that provides an appropriate level of assistance, based on assessed needs, necessary to achieve a meaningful and sustainable employment outcome. Broadly services may include vocational assessment, counselling, vocational training and job seeking assistance. A programme may also include psychosocial and medical rehabilitation activities as part of a whole of person approach.

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... However, there are some risks and trade-offs to extending social insurance entitlements

48. Allowing for extensions of social insurance would enable those who require it sufficient time to undertake approved training or rehabilitation. However, this needs to be balanced against the risk that claimants may enter low value programmes to extend the unemployment insurance.
49. To mitigate this risk, it will be important that there are sufficient checks to ensure that claimants are engaging in valuable training and rehabilitation. In New Zealand, there are current gaps in infrastructure to identify and link claimants to appropriate training or vocational rehabilitation as well as gaps in effective training or rehabilitation support and services.
50. Programmes of work such as the Reform of Vocational Education (ROVE), the Future of Work ALMP workstream and reforms within the health and disability system may address these gaps. To support the identification of appropriate training and rehabilitation it will be important that these reforms are in place by the commencement of the scheme.
51. While the project team considers that allowing social insurance entitlement to be extended for engagement in appropriate training or rehabilitation could improve labour market outcomes, we note that such a decision could create inequities between the level of assistance provided under social insurance on one hand and the welfare and education systems on the other.
52. The scheme's case management function would need the capacity and capability to assess and identify claimants' training or rehabilitation needs early. It is recommended that, should extensions be preferred, the following principles are applied to decision-making around extensions:
 - identified training or rehabilitation need and extension requirement should be identified and assessed within first eight weeks of a claim with an agreed plan between the claimant and the scheme
 - training should be able to be commenced within a reasonable timeframe of initial receipt of social insurance
 - training should provide skills that allow claimants to get a job in an occupation that is in demand in the labour market in New Zealand
 - training should take place in a school or training facility and in a training programme on an approved provider and programme list
 - rehabilitation, including healthcare should be provided through approved providers and from a list of approved types of rehabilitation to support a return to work
 - claimants are required to report on progress of training or rehabilitation and advise of any changes that could make them no longer eligible for social insurance.

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Should the SUIGG wish to allow for extensions for training and rehabilitation there are a number of options for how extensions could be applied

Option one: the ability to extend the duration up to a maximum of 12 months (irrespective of the base duration) - recommended

53. Under this option, an extension could be provided to allow up to a maximum of 12 months entitlement (irrespective of the base duration). Claimants would only be able to access the extension for the period they were in training or rehabilitation.
54. The working group considers an extended social insurance duration up to 12 months would likely provide sufficient time to undertake training or rehabilitation and find and return to good work.

Option two: the ability to extend the duration for maximum of three months or for duration of training or rehabilitation (whichever is lesser)

55. This proposal provides some flexibility for training or rehabilitation while in receipt of social insurance and would help people to adjust to a lower income if necessary, e.g. transition into the welfare or student support system to continue with training or rehabilitation.
56. There is a risk that the shorter extended duration proposed under this option may discourage training in favour of less suitable work, or in the case of rehabilitative need people may return to work sooner than they are ready.

Option three: link extensions to contribution history, e.g., every two months of contributions over the required six months would provide an additional one month extension

57. Similar to option two, this option provides some flexibility to enable extended periods of training or rehabilitation while in receipt of social insurance. Depending on the extended duration accumulated it may be more or less desirable for claimants to take up training.
58. This proposal could in particular benefit those with relatively long work histories in a certain industry or occupation that has or is becoming obsolete, and they need to retrain or upskill for a different industry or occupation. However, this proposal would be the most complex to administer as the calculation of the extended duration would be based on an individual's contribution history.
59. Of the options outlined, the working group recommend option one.

Contributions history requirement

60. The working group has previously provided advice on the contributions history requirements for entry to the scheme and proposed a contribution history requirement of three months over a 12-month period preceding the claim. The contributions could be across multiple employers and include statutory parental leave including paid parental leave (PPL) and unpaid leave to mitigate against gender bias.

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61. Ministers have expressed a preference for a six-month contribution history requirement to align with the potential duration of cover and to align with similar schemes (such as the PPL eligibility requirements). Ministers sought advice on the implications of this approach. The following discussion sets out the working group's advice on these implications.

The length of the contributions history requirement impacts who is eligible for social insurance

62. Most unemployment and sickness insurance schemes in OECD countries are contributory and eligibility is conditional on contributions requirements. These requirements are important features of the unemployment and sickness insurance schemes as they provide work incentives, prevent and/or mitigate abuse of the scheme and protect the financial sustainability of the system. However, long and stringent requirements can prevent entry of certain categories of workers who are in more need of assistance (e.g. non-standard workers).
63. Less stringent requirements such as relatively short tenures to qualify for the receipt of unemployment or sickness insurance, can create work disincentive effects such as a cycling between short-tenure jobs and periods in unemployment while receiving generous insurance amounts.

A six-month contribution history requirement for social insurance will likely exclude more workers than a three month contribution history requirement...

64. The working group is still undertaking work on the costings, but early indications suggest that shifting to a longer contributions period can have a significant impact and exclude a larger number of workers (who are more likely to be in precarious forms of employment). Further modelling is being undertaken as part of the costings work to more accurately identify this impact.

... which would mostly impact non-standard workers and Māori, Pacific peoples, women and younger workers

65. International evidence shows that people in non-standard and part-time work will find a more stringent contribution requirement more difficult to meet. They may be more likely to have fewer contributions, lower wages and/or shorter working hours than those in standard work arrangements.
66. In the New Zealand context, any coverage exclusions such as more stringent contribution requirements will have disproportionate impacts on Māori, Pacific peoples, women and younger workers. This is because:
- Māori are overrepresented as a proportion of casual and seasonal workers and Pacific peoples are overrepresented in all forms of non-standard work except fixed term work.
 - Women make up the majority of permanent part-time employees (75%) and are more likely to be engaged in all forms of non-permanent employment except fixed term.

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- Young people with a limited work history are more likely to be excluded and young people are a significant proportion of people economically displaced (with Māori are a particularly high proportion).
67. People leaving work due to a health condition or disability tend to spend a longer time between spells of employment (12 months or more), so this group may also be impacted as a result of interruptions to contribution histories.
68. People who have made regular contributions but who for some reason had an extended period out of the labour market due to reasons such as caregiving or their own ill health or disability, may also not meet a six-month contribution requirement.

The working group provisionally recommend a six-month requirement be spread over a longer preceding period

69. The working group identified several options to address coverage issues resulting from a six-month contribution history requirement. The working group's preferred option is having a contribution history requirement of six months over the 18-month period preceding the claim. This option allows for a six month contribution period while likely mitigating some of the issues for excluding certain groups who may have had interruptions in their contributions history.
70. To address issues of exclusion of particular workers, some international jurisdictions have introduced more complex rules for subsequent unemployment spells, for instance shorter contribution records, exemptions where someone has not been able to build up a sufficient contributions history or history is interrupted, or differentiated contribution rates or entitlement.
71. The working group did consider other options that maintain the core setting of six months contributions over a 12-month period but make adjustments or to allow exemptions to the core setting. For example, a six-month contribution history could be maintained with alternative or exemptions to the core setting for:
- people with a regular but interrupted contribution history such as a nine-month contribution over a 24-month period
 - people in certain circumstances, such as caregiving, where people can evidence a regular contribution history over their employment history and had been in work preceding the claim
 - pro-rata duration entitlement to the contribution of preceding employment spell, up to a maximum of the base duration
 - customisable contribution history settings for non-standard workers.
72. While these options are likely to mitigate some of the exclusions of a six-month contributions requirement the working group do not recommend them as they are likely to create additional and potentially unnecessary complexity to the scheme. They may also increase integrity risks.

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Coverage of self-employed workers

73. The working group has previously provided advice on the complexity of coverage of the self-employed in any social insurance scheme. The working group proposed that the discussion document include an option for the scheme to cover “dependent contractors”, but noted the complexities of including this group within the scheme. Ministers sought further advice on possible approaches for the coverage of contractors and self-employed, noting in particular their desire to see contractors resembling employees covered within the scheme as much as possible.

Coverage of self-employed workers is complex and not without risk

74. Self-employed workers make up a substantial part of the workforce. At December 2020, there were 343,900 whose primary job was self-employment. Ideally, self-employed workers would be treated the same as employees under a social insurance scheme. This would ensure all workers receive the benefits of the scheme regardless of the nature of their employment. It also avoids contributing to existing incentives to reclassify work towards self-employed arrangements (i.e., to avoid paying the social insurance levy).
75. Nevertheless, due to the nature of self-employed work, there are complexities with replicating the social insurance scheme for this group of workers.

The unique nature of self-employed work makes inclusion in a social insurance scheme challenging

76. There are significant differences between workers in traditional employment arrangements and those that are self-employed. There are also significant differences within the self-employed group:
- The nature of work can be shorter-term, more flexible, and these workers take on more of the risk in the arrangement.
 - The structure workers may use to derive income can vary significantly, ranging from sole traders to companies.
 - Workers may be dependent on a few sources of income (dependent contractors) or multiple sources.
77. There is also a vulnerable group of self-employed workers within this larger group that have little bargaining power when determining their working conditions and remuneration.
78. While self-employed arrangements are an important part of New Zealand’s economy, they can present challenges for the design of support schemes like social insurance. Care must be taken to ensure:
- Compliance costs are kept to a minimum.
 - Support is available to those workers that need it, such as vulnerable self-employed workers.

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- The Government provides a person with income to meet their basic needs during times of economic hardship but does not insure against usual business risk.
- The Government does not impose unreasonable boundaries to self-employed working arrangements.

Challenges with a social insurance scheme for self-employed workers

79. The working group has identified a number of challenges with designing a social insurance scheme for self-employed workers:

- It is difficult to verify the equivalent 'no-fault redundancy' situation for self-employed workers. Ideally, the scheme should not cover voluntary decisions to end employment, however, the scheme could incentivise that.
- For a self-employed worker with multiple sources of income, it can be difficult to determine the trigger condition that indicates the point of economic hardship (i.e., should the loss of 20% of a worker's income be sufficient to trigger entry into the scheme?).⁵
- Self-employed workers often have fluctuating income and a greater ability to manipulate their income. This may make the genuine level of cover difficult to determine.
- There are compliance costs and practical difficulties associated with splitting the levy between self-employed workers and their counterparties.⁶
- Given the short-term nature of many self-employment arrangements, design aspects like the bridging payment and the length of entitlement may need to be tailored to this group, such as limiting the length of entitlement to the length of a contract that was ended prematurely and removing the requirement for a bridging payment.⁷
- Many workers may feel that they have priced-in the additional risks associated with self-employment and therefore a social insurance scheme should not be compulsory for this group.

80. With this context in mind, consideration must be given to the appropriateness of whether and how a social insurance scheme is applied to self-employed workers.

Given the complexity, the working group recommends the discussion document indicates the Forums general preference and seeks feedback on the mechanics for the coverage of self-employed in the scheme...

81. Given the complexity and risks associated with each potential option, the working group recommend that the discussion document indicate the Forum's intention that contractors who resemble employees be included within the ambit of the scheme,

⁵ The draft discussion document proposes that a 20% loss of income is sufficient to trigger eligibility for benefits under the scheme.

⁶ ACC levies are only paid by self-employed workers based on their end of year tax return.

⁷ This is currently proposed in the discussion document.

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while noting the complexities of such inclusion. The discussion document would highlight possible approaches to such coverage and the implications of the various possible scenarios. It would seek feedback from the public on possible ways to meet the Forum's intention while mitigating some of the complexities and would indicate that final decisions would be informed by the work being undertaken as part of the 'Better Protections for Contractors' work.

82. The working group has considered three options for the coverage of self-employed workers that could be outlined in the discussion document. The purpose of this would be to spark further discussion rather than any of them being a preferred option at this stage:
- **Option 1:** Exclude all self-employed workers.
 - **Option 2:** Compulsorily include all self-employed workers.
 - **Option 3:** Compulsorily include all dependent contractors and an optional scheme for all other self-employed workers.
83. These options are detailed further in Annex Two.
84. We have also provided advice on the issues with collecting levies from self-employed workers and their counterparties (see Annex Three).

... but to wait for direction from the 'Better Protections for Contractors' work before making decisions

85. While it will be useful to seek feedback on the possible approaches in the Discussion Document, given the complexities, we recommend awaiting the direction of travel of the 'Better Protections for Contractors' work before making decisions on coverage of self-employed (expected by the end of 2021).
86. This body of work seeks to promote a level playing field in the labour market and ensure that contracting is not used as a way of avoiding minimum employment standards. The result of this work may provide guidance on how we could define a contractor and potentially mitigate the risk of employers/employees inappropriately reclassifying work arrangements. Further, the work on the bargaining power of vulnerable contractors may assist with the issue of how the levy should be collected from contractors.
87. This option recognises that there are underlying issues with the nature of non-standard work which cannot all be solved by the design parameters of social insurance and may be better addressed by employment and commercial law.
88. There is however inherent risk with awaiting the direction of this work, as it may shorten the timeframes available to work through and implement solutions to the complex issues of non-standard work arrangements.

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Minimum replacement floor

89. The working group has previously provided advice that a minimum replacement floor of 100% for minimum wage workers would reduce/remove financial incentives to work, increase complexity and raise equity concerns. The working group's current proposal is that there is no minimum replacement floor for social insurance. This means that social insurance claimants will receive up to 80% of their pre-displacement income, regardless of their previous income level up to the indexed cap of \$130,911 (aligning with ACC).
90. Ministers expressed interest in further exploring a minimum replacement floor to provide those on the minimum wage with greater than an 80% replacement rate and sought advice on options for how to provide a minimum replacement floor.

Options for introducing a minimum replacement floor

91. The working group explored a number of ways a more generous minimum replacement floor could be achieved. A number of designs for a minimum replacement floor are detailed in the options in Annex Four, which vary based on:
- Whether there is an hours-test, that is, whether it is intended for only full-time workers, or extends to include part-time workers.
 - Whether it is only provided for those earning the minimum wage⁸, or to those receiving low earned incomes (e.g. people earning over \$20 per hour, but earning less than \$500 per week).
 - Level of generosity of the floor (e.g. whether it is 80 or 100%).
92. As outlined in Annex Four, these options all have varying impacts on the generosity of the replacement rate provided for certain workers, the administrative ease of implementation, the level at which they maintain a financial incentive to work and how generous they are compared with other forms of financial assistance.

The working group recommend there is no minimum replacement floor for social insurance

93. The working group continue to recommend that there be no minimum replacement floor for social insurance. An 80% replacement rate provides a generous level of income smoothing whilst still maintaining a financial incentive to work and equity with other systems (most notably ACC).
94. Any minimum replacement floor that provided a 100% replacement rate could reduce/remove financial incentives to work. This may result in people staying on the scheme longer than necessary (increasing the overall cost of the scheme). Work may also come with additional costs e.g. transport to and from work. A 100% replacement

⁸ Any option based on the minimum wage and number of hours worked would need to consider how it would be applied to those receiving below the minimum wage, for example those receiving a training or starting out wage (\$16ph) or the self-employed.

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rate may therefore lead to people being relatively financially better off on social insurance, than in work with the associated in work costs.

95. A more generous replacement floor may also raise equity considerations for those eligible for other support. Most notably, as a replacement floor does not apply to ACC someone could be financially better off if their loss of income was the result of a health condition or redundancy than if it was an accident, at least in the short term. Another notable consideration is the rate of Paid Parental Leave. As an example, a minimum payment for full-time workers receiving social insurance set at \$600 would only be \$21.76 less than the current maximum Paid Parental Leave rate (\$621.76).
96. A minimum replacement floor would also be complex to administer, particularly where verification of hours and hourly rate would be required in addition to the total previous income level.
97. While a more generous minimum replacement floor may provide greater income smoothing and reduce hardship for some, it may not be well targeted to those in need/hardship given entitlements to social insurance are not affected by non-personal exertion income, partner's income or assets.
98. The working group consider that existing supports through the welfare system instead be used to ensure low-income workers who face hardship following their drop in income have additional financial support. This ensures financial support remains targeted and reduces the cost to the scheme.
99. The working group has modelled some example families to show how low wage workers in different scenarios could have higher overall replacement rates (without the introduction of a minimum replacement floor) when considering the combined effect of social insurance and wider welfare supports, compared with the welfare system with no social insurance. These example families are outlined in Annex Five.
100. While several assumptions underpin these examples, they demonstrate scenarios where social insurance claimants have much greater than 80% replacement rates once additional support through the welfare system is factored in.

Obligations and consequences for non-compliance

101. The working group has previously proposed that social insurance claimants have obligations tied to the receipt of social insurance. Obligations for those with work capacity would include:
 - Actively searching for work and demonstrating job search activity.
 - Accepting suitable offers of employment that offer at least pre-displacement wages and meeting other terms and conditions.
 - Completing a return to work plan where required.
102. These obligations are similar to many international schemes. Work obligations could be waived or reduced for those with health conditions or disabilities and for those undertaking approved training. Claimants with health conditions and disabilities would

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be required to prepare to return to work where appropriate including undergoing rehabilitation and provide additional medical certificates where required.

103. The working group has previously advised that consequences for non-compliance with obligations are likely to increase compliance and trust and confidence in the scheme, noting that harsh sanctions may not be effective (2021-4366 refers). The working group proposed that there be small financial sanctions (e.g. a 10% reduction in payments) for social insurance claimants who unreasonably failed to meet or re-comply with their obligations.
104. Ministers expressed an interest in receiving advice on using an ACC style approach to financial consequences for non-compliance, being the ability to suspend entitlements fully but only as a last resort in cases of serious non-compliance, rather than having small sanctions that may be applied more frequently.

Applying an ACC style approach for social insurance

105. The working group has examined how an ACC style approach for non-compliance could work for a social insurance scheme. Broadly, this approach would mean that:
 - Social insurance entitlements could be suspended for as long as the claimant unreasonably refused or unreasonably failed to meet certain obligations.
 - The claimant would receive written notice of the proposed suspension within a reasonable period before the proposed starting date with the opportunity to re-comply prior to the suspension taking effect.
 - Social insurance entitlements would be resumed once the claimant had re-complied.

The working group recommends using an ACC style approach with a high threshold for suspensions

106. Allowing for suspensions of entitlement but only in serious cases of non-compliance with obligations would help to maintain integrity and trust in confidence in the scheme as claimants would be required to meet their obligations.
107. There is a risk that having suspension of entitlement as the only lever to support compliance with obligations may result in people facing unnecessary financial hardship or taking up unsuitable employment out of fear of a financial penalty if they do not. For this reason, the working group recommends setting a sufficiently high threshold for suspension, and allowing claimants sufficient time to re-comply with their obligations before any suspension takes effect. The intent is that, in most cases payments are not suspended as either obligations are met, or re-compliance occurs before suspension.
108. Setting clear obligations and a high threshold for suspension would ensure claimants were able to decline unsuitable job offers⁹ without fear of financial consequence, consistent with the aim of supporting return to suitable employment.

⁹ Suitable job offer will need to be defined but would include conditions such as it being paid at, or higher, pre-displacement wages, being in a suitable location and being suitable based on childcare and other personal circumstances.

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109. Any discretion in applying financial penalties can result in variations in how they are applied. Across both the ACC and welfare systems, this discretion has, in the past, resulted in financial penalties being applied at a proportionately higher rate for Māori than non-Māori. Clear guidance for when to apply suspensions and monitoring of practice would be needed to mitigate this risk as much as possible.

Levying and coverage of visa holders

110. The working group has proposed that all visa holders working in New Zealand will have to pay the social insurance levy but only those with residency class visas will be able to claim from the scheme (2021-4366 refers).
111. Ministers asked for more information around which visa holders will be included in the scheme and who pays the levy.

The working group recommends that residence class visa holders are covered by social insurance...

112. For migrants that have a permanent right to work in New Zealand, it is important to make the best use of their skills, and to support them to thrive. Supporting residents through the insurance scheme would be consistent with its core purposes of reducing wage scarring and supporting good transitions between jobs. Therefore, the working group proposes that resident visa holders would pay the same contributions and receive the same entitlement to social insurance as New Zealand citizens.
113. Although resident class visa holders will be eligible to claim, the objective of the scheme is to support return to good work in New Zealand. If the resident visa holder returns overseas (for longer than 28 days), social insurance payments would not continue, unless exceptional circumstances exist (e.g. they need to be overseas to support an ill family member but intend on returning to New Zealand), as would apply to all social insurance claimants.

... but that other temporary visa holders are not covered by social insurance

114. The case for supporting temporary visa holders through the scheme is less strong. For working holiday makers and international students, their main purpose for being in New Zealand is to holiday, or to study. Employment is a secondary activity.
115. For temporary work visa holders, employment is their main reason for being in New Zealand and their visa will often be linked to a particular employer. If that worker is made redundant, or becomes unable to work, then they will lose their eligibility to work in New Zealand and need to return home.
116. The working group has proposed that working holiday makers, international students, and other temporary work visa holders would not be eligible for coverage by the social insurance scheme. Those temporary visa holders should either have enough to support themselves while in New Zealand (where it is a condition of their visa) or should look to return home. However, they would be entitled to the bridging payment had they been made redundant or faced a medical dismissal.

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The working group recommends all visa holders contribute to the costs of the scheme

117. The working group recommends that all visa holders pay social insurance levies on their income while working in New Zealand, even though, not all will have access to the scheme. If certain visa holders were excluded from contributing to the scheme, this would reduce the cost to employers of hiring certain visa holders (as they would not need to pay a levy). This would disadvantage New Zealand job seekers as migrant workers become more attractive to hire.
118. This is broadly consistent with some international schemes, but with some variations. Some jurisdictions (such as Germany) provide voluntary coverage for all foreign workers as long as they meet their minimum contributions, while other jurisdictions (such as Finland) completely exclude visa holders.
119. The immigration reforms, once finalised, may have implications for who is and who is not covered under social insurance.

Eligibility for the In-Work Tax Credit

The working group has proposed that claimants be able to receive the In-Work Tax while on social insurance (where otherwise eligible)

120. The In-Work Tax Credit (IWTC) provides up to \$72.50 per week for eligible families with children who have some income from work, partly to address the associated costs of working.
121. For the purposes of eligibility for the IWTC, income received from ACC weekly compensation and Paid Parental Leave, is considered as income from work. This means ACC weekly compensation and Paid Parental Leave recipients can access the IWTC even if they are no longer in employment (so long as they are otherwise eligible). However, beneficiaries cannot receive the IWTC, even when they have some income from work (the off-benefit rule).
122. The working group has proposed that, for the purposes of public consultation, social insurance claimants be able to receive the IWTC while in receipt of social insurance. This aligns with ACC weekly compensation and helps to meet the income smoothing objectives of social insurance as claimants would not lose their eligibility to the IWTC in addition to their loss of income.
123. Allowing social insurance claimants to receive the IWTC may exacerbate equity concerns given beneficiaries are not eligible. However, not allowing them to receive the IWTC may raise similar equity concerns given ACC recipients are eligible.
124. The working group recommend that proposals around eligibility for Working for Families tax credits be considered further in light of the outcome of the ongoing review of Working for Families.

Next Steps

125. The working group will provide advice prior to the Ministerial meeting on 4 August on the following issues raised by Ministers:
- Why/when claimants may be able to access both ACC weekly compensation and social insurance at the same time.
 - Why 20% loss was chosen as the threshold for multiple job holders.
 - Further information about case management and support services
 - Further information on the dispute resolution process.
 - Funding of the scheme.
 - Evidence required when making determinations on conflicts of option.
126. Government officials will also be providing advice to Ministers on the resourcing implications for the consultation phase of the work ahead of the Ministerial meeting on 4 August.
127. On 12 August the working group will provide the revised costings and a revised discussion document reflecting the decisions made in this paper. This paper will also outline the next steps for the finalisation and publication and the discussion document; and proposals for the communications campaign to support the consultation.

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Annex One: Examples of how international unemployment insurance schemes allow for training

Austria	<p>Duration can be extended by the period during which the claimant participates in a follow-up training or retraining or reintegration measure commissioned by the Labour Market Service.</p> <p>Duration can be extended by three or four years if the claimant participates in a work foundation, i.e. an employment training scheme organised by one or more companies that provides training at an early stage of unemployment or in situations where a large group of people are likely to be made redundant. Continuing availability for work is generally required while participating in ALMPs.</p>
Canada	<p>Skills Boost came into effect in August 2018. EI claimants who are long-tenured workers (received fewer 26 weeks of EI in the last five years and paid at least 30% of the maximum EI premium in seven of the last 10 years) and wish to self-fund full-time training at an approved institution can request permission directly from Service Canada to continue receiving EI regular benefits during training that would otherwise restrict their ability to meet program requirements (i.e. searching and being available for work). In 2019-20, 896 claimants to continue receiving EI benefits in order to train under Skills Boost, representing 0.2% of all long-tenured worker EI claimants.</p> <p>Skills Boost also introduced measures to provide enhanced Student Financial Assistance targeted to working or unemployed Canadians looking to return to school to upgrade their skills.</p> <p>Provisions to allow some flexibility to persons affected by illness or disability, as regards the period of time during which they must qualify as well as the period of time allotted for the receipt of EI benefits.</p>
Denmark	<p>Within certain limits a claimant can participate in courses and education to improve their chances of returning to the labour market.</p> <p>No extension of benefits is possible if the training lasts beyond the end of the UI benefit period, but maximum benefit period is 2 years with possibility of extending for up to an additional year. The extension of the unemployment benefit period is 1:2 (i.e. one month work gives two extra months of unemployment benefit) https://www.missoc.org/missoc-database/comparative-tables/results/</p> <p>Claimants in ALMPs need to continue active job search and accept job referrals.</p>
Germany	<p>In Germany, people in the UI and welfare systems can receive a benefit and participate in ALMPs. In 2003, Germany implemented a training voucher scheme (Bildungsgutschein) that indicates the target occupation and duration, and the claimant can choose their training provider and course. Once the voucher is redeemed, programme participation is compulsory, and failure to participate may result in benefit sanctions.</p> <p>The most intensive retraining programme offered is of two-three year duration and targeted at those who have never completed any vocational training or not worked in their learned occupation for several years. People can continue to receive their benefits (either UI or welfare system) while studying or training, it is unclear whether UI is extended (in the case where entitlement is exhausted), or people move to Benefit II on exhaustion of the UI.</p>

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Netherlands	Mandated to fund training necessary to re-enter workforce. Funding for training can continue beyond duration of UI but UI cannot be extended but for many long term training not a desirable option due to drop income from UI to basic unemployment benefit. Job search obligations can be suspended while undertaking training.
Sweden	<p>Claimants can participate in training but must be ready and available for work. In 2001, removed the possibility to renew UI benefit eligibility by participating in an active labour market programme to prevent the cycling between periods of (UI- compensated) unemployment and programme participation and hence longer periods of non-employment. Some evidence suggested that claimants often entered programmes just to renew the UI.</p> <p>If a person remains unemployed at the expiry of their UI they are commonly offered the Job and Development Guarantee programme.</p>
United States	<p>The US Training Program offers additional weeks of unemployment benefit (depends on claim but usually 26 weeks) to make retraining available for unemployed individuals whose skills who are no longer in demand; enhance participants' skills and earning power; and target retraining to high demand occupations. There is no guarantee that the regular UI or training extension will be sufficient to cover the entire period of training and after the UI runs out, claimants need a plan for how to pay for school and living expenses.</p> <p>Claimants do not have to look for work as long as enrolled and making satisfactory progress in training. Also need to advise if they discontinue suspend or reduce enrolment to less than fulltime, or make a change to approved training program or provider. Not meeting these requirements can result in other job-search requirements and/or to pay back benefits received.</p> <p>An acceptable training program is a course of education that:</p> <ul style="list-style-type: none"> • takes place at a school or training facility and in a training program on the Eligible Training Provider List approved by the Workforce Training and Coordinating Board • provides skills that allow claimants to get a job in an occupation that is in high demand in the labour market, as determined by the local workforce development council • is not primarily intended to meet the requirements of a bachelor's degree or higher. <p>Dislocated workers and certain disabled individuals may qualify to attend part-time training. All others must undertake training that the school or training facility deems full-time.</p> <p>The Trade Adjustment Assistance Program (TAA) is a federally funded program that provides training and training related benefits and services to those workers certified by the U.S. Department of Labor (DOL) as having lost their jobs, or had their hours and wages reduced as a result of increased imports from, or a shift in production to a foreign country.</p>

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Annex Two: Possible options for coverage of the self-employed

1. The working group would like to set up a range of 'options' that would form part of a structured conversation with the public on self-employed workers in the discussion document. We seek feedback from Ministers on these options.

Option one – exclude self-employed workers

2. Given the complexities associated with including self-employed workers in the social insurance scheme and the limited time to address the design risks, this group could be excluded — at least in the short term while further work is done to consider how to include this group in the scheme. Excluding self-employed workers from social insurance schemes is a common overseas practice and insurance under the private market would still be available to this group (albeit at a likely higher cost compared to a social scheme).
3. The growth of non-standard work arrangements internationally in recent years, and especially since COVID, have led some countries to look at how to extend coverage to self-employed workers. An objective of this work was also to respond to changes in the future of work. If the same trend is also seen in New Zealand, excluding self-employed workers would be contrary to this objective.
4. Excluding self-employed workers also means the benefits of the social insurance scheme, such as limiting wage scarring, would not be available to a significant percentage of the New Zealand workforce. There would also be greater incentives to reclassify arrangements in order to avoid paying a levy. Vulnerable workers may be particularly susceptible to reclassification.

Option two – include all self-employed workers compulsorily

5. In contrast, all self-employed workers could be compulsorily included in the scheme. This option ensures that self-employed workers would receive the same benefits as traditional employees and there would be no incentives to reclassify work arrangements. In addition, including all self-employed workers in the scheme may help keep the levy affordable as risk is pooled over a larger number of people.¹⁰
6. The key challenge with this option is designing rules that are suitable for a diverse group of workers (i.e., dependent contractors are distinct from business owners). Consider the following examples:

¹⁰ Despite this, during times of economic downturn, this group maybe more susceptible to economic hardship which will increase the cost of the scheme and the risks to the Crown.

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Example 1: Consultant

Mary is a consultant and relies on 3 counterparties for her income. Her largest contract ended 3 months prematurely as the counterparty overestimated the amount of work required. This contract accounts for 1/2 of her current income, but the total loss of income accounts for less than 20% of her income over the year.

How should social insurance apply in Mary's situation?

- Should Mary be eligible for social insurance while continuing to receive income from her other 2 contracts? In many countries, all business activities must cease before being eligible for benefits under the scheme.
- What level of income loss should trigger payments under the scheme? Under the current proposal in the discussion document, Mary would not be eligible for payments under the scheme as the loss of income is less than 20% of Mary's total income.
- If Mary is eligible for social insurance, how long should her entitlement last for. The current proposal in the discussion document is that she would be entitled to payments for the remaining length of her original contract.
- Should the counterparty be required to account for the 1-month bridging payment? The counterparty may perceive the bridging payment to be unfair given the contract was only prematurely ended by 3-months.

Example 2: Dairy owner

Jack operates a dairy on a key commuting route. Recently, a new road opened up that bypassed his shop. As a result, Jack has lost half of his customers. His dairy is no longer viable as the cost of operating the dairy exceeds his sales.

How should social insurance apply in Jack's situation?

- If Jack is eligible for social insurance, what conditions must be fulfilled before receiving support? For example, should Jack be required to cease his business or go into liquidation before receiving social insurance payments?
- Can Jack receive social insurance while he relocates his dairy to a more profitable location?¹¹
- In Jack's situation, there are no single counterparty to account for a 1-month bridging payment, this means the general fund may have to cover the first month of payments.
- Jack's past income was variable and was in decline due to COVID-19, what should Jack's entitlement be? ACC's current approach is to consider the income from the most recently completed financial year. ACC also offers an optional scheme called CoverPlus Extra (CPX) that allows workers to choose how much of their income they want to be covered in situations where a worker's income is variable.

7. While ideally a single set of rules keeps the scheme simple and easy to understand, as the above examples demonstrate, a single set of rules may not apply sensibly to a

¹¹ For integrity reasons, other countries restrict workers ability to re-establish a business within a certain period of time.

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diverse group of workers. Integrity rules also need to be developed to avoid workers from gaming or otherwise taking advantage of the scheme.

8. Consultation will help inform how the rules should be designed for such a diverse group.

Option three – compulsory for dependent contractors and voluntary for other workers

9. This option requires dependent contractors to be in the scheme while all other self-employed workers can voluntarily opt into the scheme. “Dependent contractors” would be defined as a contractor who relies on a single counterparty for at least 20% of their income and have no more than five counterparties in any one year for personal exertion income.
10. Dependent contractors are in many respects like traditional employees and many have precarious work arrangements making them vulnerable to loss of income. The 2018 Survey of Working Life found that 49.5% of contractors rely on one client or business for most of their work.
11. This option attempts to target workers that are most like traditional employees while allowing other self-employed workers to opt into the scheme if they wish. Tailored rules will still be required to deal with the different types of self-employed workers.

Opt-in scheme

12. The majority of countries that offer a social insurance scheme for self-employed workers have a voluntary scheme.¹² An opt-in scheme is likely to be more costly for those covered than a compulsory scheme as higher risk workers will opt into the scheme, while lower risk workers will not. Similarly, when the economic climate is uncertain, more workers will opt into the scheme compared to more stable economic times. This is known as adverse selection and is likely to increase the volatility of the fund and drive up the cost.
13. Given the higher cost nature of an opt-in scheme, Ministers may wish to consider a ring-fenced fund and a separate levy for this scheme. While administrative costs can be shared across the funds, a separate fund avoids the compulsory scheme bearing the additional risk and cross subsidising the opt-in scheme.
14. In order to ensure an opt-in scheme remains affordable, the eligibility and trigger conditions may need to be stricter than the compulsory scheme. For example, many countries require self-employed workers to be in the scheme for at least 12 months before becoming eligible. However, this may reduce the attractiveness of the scheme and therefore reduce participation.

Boundary issues - dependent contractors vs other self-employed workers

15. A key concern is the boundary issues that come with having to define sub-groups of self-employed workers.

¹² Only Finland provides social insurance coverage to self-employed workers, while Spain, Germany, Denmark and Austria adopt a voluntary coverage scheme. Finland requires a self-employed person to close their business before they are eligible, and Finland also covers voluntary departures, not just no-fault redundancies.

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16. The complexity of setting boundaries between these sub-groups, especially where some characteristics may overlap, increases the risk of excluding vulnerable workers and creating opportunities for some self-employed workers to adapt their business to be in or out of these definitions as they please. This may reduce the overall coherence and integrity of the scheme.
17. A further issue that comes from drawing boundaries, such as the one drawn for dependent contractors, workers with similar operations may end up on different sides of this boundary.

Example 3: Boundary issues

Michael is a painter who is contracted by a single large construction company to paint homes in a new subdivision. Michael meets the definition of “dependent contractor”.

In contrast, Leo contracts with individual homeowners. He has more than 5 contracts and therefore does not meet the definition of “dependent contractor”. Leo assesses himself to be at a low risk of economic displacement and chooses not to be in the social insurance scheme.

As Leo does not have to pay the social insurance levy, he can charge a lower price per home than Michael who is required to be in the scheme and pay the levy. Michael can increase his prices so his bottom line is not affected by the levy, however he might not be able to do so because his competitors do not have to increase their prices.

Michael may decide to change the way he contracts with the construction company to avoid being a dependent contractor, for example he could contract directly with the company’s underlying clients. This arrangement may be less efficient but perceived as necessary for Michael to remain competitive.

18. If workers must pay a levy, they will try to pass on the cost of the levy if they can. However, where only some people have to pay the levy, then competition with those who do not have to pay a levy means they cannot raise their prices unilaterally. Competition will therefore lead to workers who are in the scheme having to bear the full economic incidence of the levy.
19. There may also be compliance issues with having to differentiate between subgroups as no information is currently being collected to identify dependent contractors.¹³ This means, without further information, we will be relying on dependent contractors to voluntarily comply with the scheme and return the levy.

¹³ No information is collected on how many counterparties a contractor may have at any given time.

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Annex Three: Collecting the levy from self-employed workers

1. Another issue to consider for self-employed workers is levy collection. The working group has identified three collections options:
 - a. Split the levy between self-employed workers and their counterparties. Both parties would be required to return the levy to ACC.
 - b. Require self-employed workers to return the levy to ACC, but they would be required to charge counterparties their share of the levy via invoices. This means the legal incidence of the levy is split between self-employed workers and their counterparties, but the obligation to return the levy is solely on self-employed workers.
 - c. The legal incidence of the levy and the requirement to return the levy to ACC is solely on self-employed workers. This option replicates the current system for charging and returning ACC levies (IR's and ACC's preferred option).
2. We note that there are a variety of self-employment arrangements. Many self-employed work in arrangements more closely resemble employment working arrangements (e.g. dependant contractors). In these cases, the challenges outlined in this section on levy collection would be diminished. However, there is no simple means to distinguish such contractors from other self-employed.

Splitting the levy between self-employed workers and their counterparties

3. For standard employee/employer arrangements, the levy collected will be split equally between the employee and employer. Like ACC, it is proposed that the employee levy will be collected by Inland Revenue through PAYE and the employer levy will be paid to ACC by the employer. In terms of self-employed work arrangements, collecting the levy becomes more complex, particularly the collection of the employer levy.
4. Prima facie, sharing the cost of the levy between workers and their counterparties may appear desirable. If counterparties weren't charged a levy for the workers they hire, it may be more attractive for them to hire self-employed workers over standard employees and workers would reclassify work arrangements.
5. However, empirical evidence shows that often the person who is legally required to pay a levy to the Government is not the person who ultimately bears the cost of that levy. If the onus of paying the employer levy is on the worker, they may try to pass this through to the price they charge to the counterparty over time. Alternatively, if the counterparty holds the bargaining power in the relationship, the worker may not be able to pass on the cost of the levy. In other words, the legal incidence of the levy is not necessarily the same as the economic incidence (i.e., who pays) in the long run.
6. Legal incidence dictates who remits the levy, thereby influencing who incurs a compliance cost. Determining who pays the levy should primarily be based on factors such as who is best placed to do so.
7. If counterparties were required to return an employer levy, ACC would need to be made aware of all self-employed workers ongoing contracts to ensure compliance. It also may not be practical to require "mum and dad" clients, such as individuals who contract a builder to do work on their house, to get in contact with ACC to pay a levy.

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Furthermore, if the scheme differentiates between dependent and independent contractors (option three), the onus is on the client to know whether their contractor is in or out of the scheme.

Charging the employer levy via invoices

8. The discussion document could also explore the option of charging counterparties the levy via the self-employed worker's invoice, similar to how GST is charged. This would improve the transparency of the levy and mimic the split levy for standard employee/employer arrangements without some of the practical difficulties with collection as described above.
9. The key challenge with this option is how the levy will be calculated on a per invoice basis. Currently, ACC levies for self-employed workers are determined at the end of the year once the self-employed worker has filed their tax return. Consequently, attempting to calculate the counterparties share of the levy during the year on a per invoice basis may result in over or undercharging.
10. Adding to invoice requirements will also result in additional compliance cost for self-employed workers.

Replicating the current ACC levy

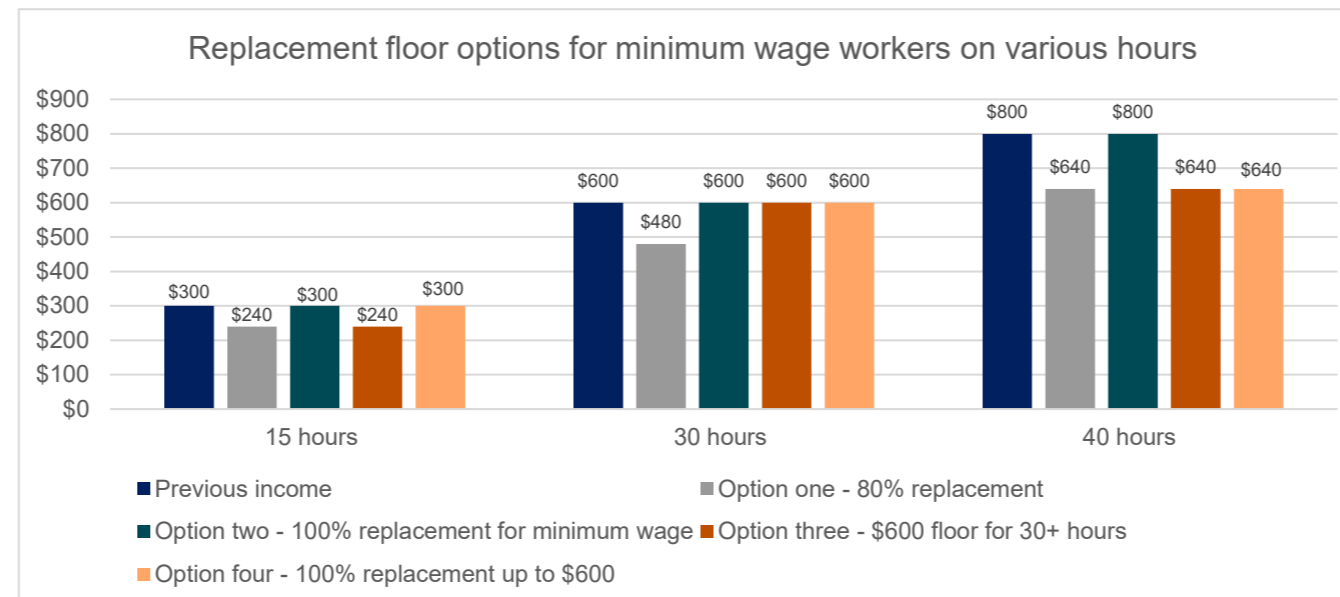
11. One option may be for the scheme collect levies from self-employed workers in the same way that ACC levies are collected from these workers. This means ACC would send an invoice to the self-employed worker once they have filed their tax return. This option is likely to be the simplest collection mechanism and is currently working well for the ACC scheme.

Annex Four: Options for a minimum replacement floor

1. The table below details various options for introducing a minimum replacement floor, assessed against some key criteria.

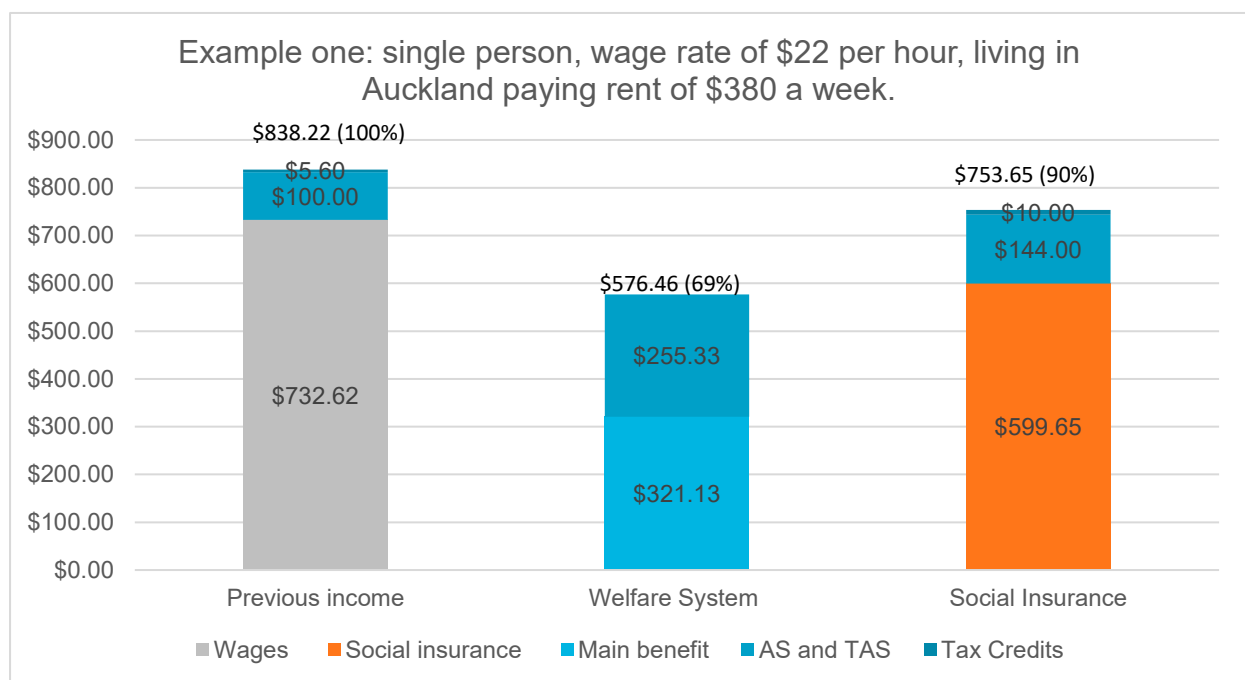
	Generosity of replacement rate (refer to graph below)	Maintains financial incentive to work	Administrative complexity	Equity with other payments
80% replacement rate (option 1) - Provides 80% replacement rate for all claimants with income below \$130,911	<ul style="list-style-type: none"> - Relatively generous compared with international schemes – aligns with ACC - Claimants will have a drop in income. 	<ul style="list-style-type: none"> - Maintains financial incentive to work. 	<ul style="list-style-type: none"> - Easy to implement leveraging off existing ACC IT. 	<ul style="list-style-type: none"> - Maintains equity with ACC weekly compensation rates.
100% replacement rate capped at the minimum wage (option 2) – Provides a 100% replacement rate capped at the minimum wage	<ul style="list-style-type: none"> - Those earning the minimum wage would have a 100% replacement rate and those earning above the minimum wage would not receive less than the minimum wage. - Minimum wage claimants would not have a drop in income. 	<ul style="list-style-type: none"> - Reduces financial incentives to work for minimum wage workers. 	<ul style="list-style-type: none"> - Complex as requires verification of hours and hourly rate. 	<ul style="list-style-type: none"> - May raise equity issues given relative generosity compared to ACC and for full-time workers – PPL.
\$600 floor for those working 30+ hours on the minimum wage (option 3) – Provides a set minimum level of entitlement for those working 30+ hours that is not less than the minimum wage	<ul style="list-style-type: none"> - No one working full-time (e.g. 30+ hours) would receive less than the minimum wage for 30 hours. - Claimants working less than 30 hours would have a drop in income. 	<ul style="list-style-type: none"> - Reduces financial incentive to work for full-time minimum wage workers. 	<ul style="list-style-type: none"> - Complex as requires verification of hours. 	<ul style="list-style-type: none"> - May raise equity issues given relative generosity compared to ACC and for full-time workers – PPL – given minimum social insurance would only be \$21.76 less than max PPL rate.
100% replacement up to \$600 per week (option 4) – Provides a 100% replacement rate up to a set point	<ul style="list-style-type: none"> - No-one earning \$600 or less would have a drop in income. - Provides 100% replacement rate for those working 1-30 hours on the minimum wage. 	<ul style="list-style-type: none"> - Reduces financial incentives to work for those earning \$600 or less. 	<ul style="list-style-type: none"> - Less complex than prior two rows as does not require verification of hours. 	<ul style="list-style-type: none"> - May raise equity issues given relative generosity compared to ACC and for full-time workers – PPL.

2. The graph below shows how the options outlined in the table above provide differing replacement rates for minimum wage workers depending on the hours worked. Options two, three and four all provide an 100% replacement rates at some point for minimum wage workers, whereas option one (the working group’s preferred option) maintains an 80% replacement rate regardless of the level of income/ hours worked. Note these replacement rates only account for gross social insurance entitlements, the combined impact of wider welfare entitlements are demonstrated in the example families in Annex Five.



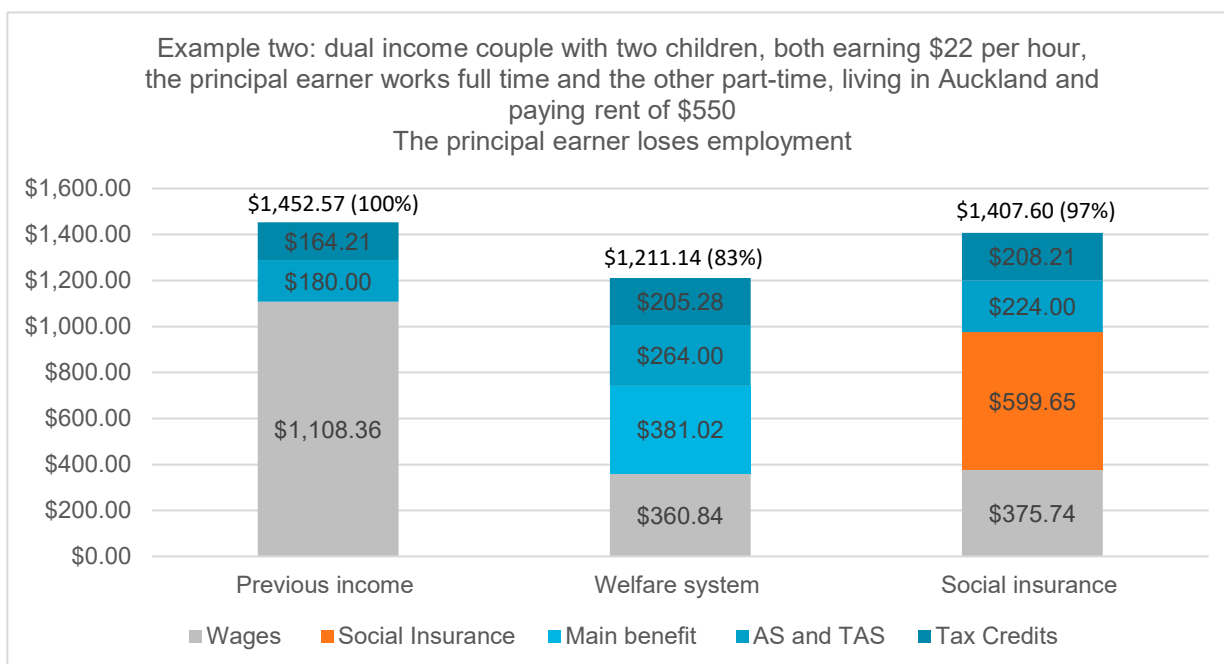
Annex Five – Example families

- The below example families provide an illustrative example of the net income of families while in work, compared to if they lose their employment and what they would receive on welfare (on 1 April 2023), or on social insurance with the combined impact of any other welfare support. The example families are based on a number of assumptions, detailed further below.
- Example one shows that a single person working 40 hours a week on \$22 an hour would have a net replacement rate of 69% (rounded) if they were to lose their job and access support from the welfare system. With the proposed social insurance replacement rate of wages of 80%, the person would have an overall net replacement rate of 90% (rounded) of their previous income, taking into account their likely entitlement to other support from the welfare system (primarily the Accommodation Supplement).



- Example two (below) shows a dual income couple with children, both earning \$22 where the full-time (40 hours) partner loses their employment and the partner working part-time (20 hours) retains their employment. This family would have an 83% net replacement rate on welfare alone compared with a 97% overall net replacement rate on social insurance and welfare (a combination of Working for Families Tax Credits and Accommodation Supplement) combined.
- These example families aim to demonstrate the combined effects of welfare support and social insurance on overall replacement rates for low-income individuals and families.

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The model used to generate these example families makes a number of assumptions. Including:

Interactions with the welfare system

- Social insurance is treated as ordinary income for benefit purposes and family scheme income for Working for Families purposes.
- The example families are paying lower or median quartile rents in Auckland.
- The example families do not have cash assets or other non-personal-exertion income, meaning they are eligible for supplementary assistance from MSD subject to their income/ social insurance level.
- Benefit rates are as at 1 April 2023 following the benefit increases.
- The Family Tax Credit entitlements assume an increase that is anticipated in April 2022 due to cumulative CPI exceeding 5%.
- The, Independent Earners Tax Credit, In-Work Tax Credit and Minimum Family Tax Credit can be received by social insurance recipients (where otherwise eligible).
- The Winter Energy Payment is not included in welfare calculations.
- No childcare costs or assistance were included.

Rate of social insurance and other net income

- People do not pay ACC earners levies on social insurance payments.
- The funding of the scheme is not considered, i.e. we have not added a social insurance levy to taxation on incomes.
- As the purpose of this analysis is to compare income smoothing, it is assumed the example families are eligible for SUI.
- The individual's point-in-time income is assumed to determine the person's social insurance payment.
- No families had student loan repayments.
- The families are working full-time (assumed to be 40 hours) except where it is specified they are working part-time (assumed to be 20 hours).

The results are all net (after tax).