

NOTE: Documents included in this release reflect steps in the Budget 2024 decision-making process, not final decisions.



**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HĪKINA WHAKATUTUKI



## BRIEFING

### Fiscal sustainability options for the Workplace Relations and Safety Portfolio

Date:	27 November 2023	Priority:	High
Security classification:	Sensitive	Tracking number:	2324-0920

Action sought		
	Action sought	Deadline
Hon Brooke Van Velden <b>Minister for Workplace Relations and Safety</b>	<b>Note</b> the opportunities for savings and reprioritisation within your portfolio.	4 December 2023

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Nic Blakeley	Deputy Secretary Labour, Science and Enterprise	Privacy of natural persons	✓
Privacy of natural persons	Senior Policy Advisor		

The following departments/agencies have been consulted

- Minister's office to complete:
- |                                              |                                               |                                    |
|----------------------------------------------|-----------------------------------------------|------------------------------------|
| <input type="checkbox"/> Noted               | <input checked="" 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 Withdrawn |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



# BRIEFING

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### Purpose

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This briefing sets out reprioritisation options in the Workplace Relations and Safety portfolio to support the Government's fiscal objectives.

### Executive summary

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This briefing provides you with background information on expenditure and savings opportunities within the Workplace Relations and Safety portfolio.

The key opportunity for savings and reprioritisation that you may wish to explore with officials is \$11.391m savings and \$4.341m in proposed reprioritisation from the MBIE's Employment Services branch achieved by ceasing the current Fair Pay Agreements (FPA) work programme. This includes both departmental and non-departmental spending.

Additionally, it is noted that MBIE is undertaking a whole-of-organisation savings process aimed at identifying a 10% reduction in policy; 15% reduction in discretionary spend such as travel, conferences, training, and recruitment costs; and savings in core services (HR, IT, and other corporate functions). These savings will be apportioned out to portfolios once Ministers have provided direction on which options they want to pursue. This will be addressed in a separate MBIE ownership fiscal briefing, received by all Ministers with portfolios serviced by MBIE.

This briefing also addresses the extent of opportunities for savings from other elements of your portfolio (specifically non-departmental investment in Crown Entities and other funded organisations). Immediate savings in these areas are not recommended, but longer-term opportunities to consider funding settings and revenue generation are identified.

## Recommended actions

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The Ministry of Business, Innovation and Employment recommends that you:

- a **Note** that MBIE has undertaken a fiscal sustainability and efficiency programme to support the government to achieve its fiscal objectives and ensure value for money in government spend

Noted

- b **Note** that:

- i. this Workplace Relations and Safety Portfolio briefing identifies options of up to \$11.391m savings in 2024/25 (decreasing slightly in outyears) and \$4.341m reprioritisation, for your consideration
- ii. there are additional options identified in the MBIE ownership fiscal briefing [Ref 2324-0917] and these savings will be apportioned to your portfolio

Noted

- c **Note** the proposed savings (\$9.406m departmental and \$1.985m non-departmental) and reprioritisation opportunities (\$3.805m departmental and \$0.536m non-departmental) that would arise from ceasing Fair Pay Agreements activities, including savings from the Employment Relations Authority

Noted

- d **Note** that savings from WorkSafe New Zealand or the other smaller organisations in your portfolio are not recommended at this stage

Noted

- e **Note** that as the work health and safety elements of your portfolio are levy-funded, any savings realised may only be returned to the Health and Safety at Work Levy memorandum account or reprioritised within the Health and Safety system

Noted

- f **Note** that there are several unfunded pressures within your portfolio, for which we will need your decisions about whether to progress policy work

Noted

- g **Note** that the viability and impact of savings in your portfolio are largely dependent on the scale and urgency of the work programme you wish to pursue as Minister, and that this will be a focus of your early discussions with officials

Noted

- h **Discuss** the contents of this briefing with officials at your initial meeting with MBIE

Yes/No

- i **Agree** to attend a meeting for MBIE portfolio Ministers to discuss the reprioritisation options presented in this paper and how best to achieve your respective portfolio priorities as well as overall fiscal objectives

Agree / Disagree

j **Note** that we will provide further advice on options for savings and reprioritisation you would like to progress, including phasing, costs of change, and risk management.

Noted



Nic Blakeley  
**Deputy Secretary**  
Labour, Science and Enterprise, MBIE

27/11/23



Hon Brooke van Velden  
**Minister for Workplace Relations and Safety**

31/12/23

# Strategic choices for Reprioritisation in the Workplace Relations and Safety Portfolio

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1. This paper sets out the key choices on where and how you may wish to invest, reprioritise, or deliver savings in the Workplace Relations and Safety Portfolio.

## Funding in your Portfolio

2. There are four main streams of funding within your portfolio:
  - Departmental funding for four MBIE Workplace Relations and Safety Policy teams – three Employment Relations and Employment Standards (ERES) teams, and one Health and Safety at Work (HSW) team.
  - Departmental funding for the MBIE Employment Services branch (which contains the Labour Inspectorate, Employment Mediation Services, and administrative support for the Employment Relations Authority).
  - Non-departmental funding for Employment Relations Authority (ERA) Members.
  - Non-departmental funding for WorkSafe New Zealand.
3. Further detail of the funding arrangements for your portfolio is captured in the following sections of this paper.

## Opportunities for Savings and Reprioritisation in Your Portfolio

4. Any savings or reprioritisation within your portfolio will require trade-offs to ensure that both the ERES and HSW regulatory systems remain sufficiently resourced to maintain their respective systems and deliver on your priorities as Minister. However, there are three broad areas of savings which have initially been identified for consideration:
  - A 10% saving applied across MBIE's entire policy function.
  - Savings across MBIE's corporate overheads and discretionary expenditure.
  - Savings from the cessation of Fair Pay Agreement (FPA) activities, yielding \$11.391m in 24/25<sup>1</sup> (\$9.406m departmental and \$1.985m non-departmental), and proposed reprioritisation of \$4.341m.
5. The cessation of the current FPA work programme will yield savings. Given the early stage of FPA bargaining processes, some FPA-funded resources are currently reinforcing existing employment services. Demand for employment relations services in Q1 2023/24 shows volumes are tracking significantly higher than 2022/23. Reprioritising some FPA funding would allow MBIE frontline services and the ERA to maintain service delivery levels amid rising demand, while returning significant departmental and non-departmental savings.
6. We have not identified other opportunities for savings from the portfolio's non-departmental spend at this stage, primarily due the fact that WorkSafe New Zealand is currently in the process of a restructure to address existing fiscal pressures – we will be briefing you separately on this.
7. We have also not identified any initial opportunities for savings from the smaller organisations funded through your portfolio at this stage, on the basis that their small scale and discrete functions mean negligible savings would be viable while still retaining their core functions. To yield meaningful savings would require fundamental decisions about the

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<sup>1</sup> Savings will decrease slightly in subsequent years to \$10.702m in 2025/26, \$10.573m in 2026/27 and \$10.440m from 2027/28 onwards.

ongoing roles of these organisations. We are able to provide you with advice on this if you wish.

### **Funding Pressures within your Portfolio**

8. The previous Government also made a number of policy decisions to undertake activities for which funding has not as yet been appropriated, including modern slavery, pay gap reporting, and obligations arising from the Indo-Pacific Economic Framework negotiations. Your decisions about whether to continue, change, or stop work in these areas will be important to inform decisions and assess impacts regarding potential savings and reprioritisation in your portfolio.

## **Fiscal Background for the Workplace Relations and Safety Portfolio**

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### **Current Funding in Your Portfolio**

9. The main areas of expenditure in your portfolio in 2023/24 are as follows:
  - ERES Regulatory System
    - \$6.919m in departmental funding for three MBIE ERES policy teams (includes 36.7 FTEs including vacancies and \$0.320m budgeted for consultants and contractors).
    - \$63.231m in departmental funding for operational services in the ERES system, largely delivered through the MBIE Employment Services Branch (259.6 FTEs<sup>2</sup>).
    - \$7.621m in non-departmental funding for the salaries and allowances of 31 ERA members, including the Chief of the ERA.
  - HSW Regulatory System
    - \$2.092m in departmental funding for one MBIE HSW policy team (includes 12.9 FTEs including vacancies<sup>3</sup> and \$0.107m budgeted for consultants and contractors)<sup>4</sup>.
    - \$138.778m<sup>5</sup> in non-departmental funding for WorkSafe New Zealand (697.8 FTEs excluding vacancies, with an organisational realignment currently underway to reduce this by 128 roles).
10. In addition to these main areas of expenditure in your portfolio, there are five additional funded organisations:
  - \$0.330m for the Remuneration Authority members' salaries (plus MBIE operational support of \$0.605m).
  - \$1.098m for the Mines Rescue Trust – collected independently from a bespoke levy.

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<sup>2</sup> This figure is as of 30 September 2023. It includes operational staff in the ERA who are employed in MBIE's Employment Services branch. It does not include operational FTE from outside the Employment Services branch who work across numerous regulatory systems including the ERES system (e.g. operational FTE in MBIE's service centres responding to phone calls and emails from the public across all systems in MBIE). Including these would bring the total operational FTE count to 293.4.

<sup>3</sup> Excluding vacancies, there are currently 39.3 FTEs across the four MBIE policy teams.

<sup>4</sup> Excludes corporate overhead costs.

<sup>5</sup> For the purposes of this discussion, total includes appropriated funding and as yet undrawn ongoing funding for Public Sector Pay Adjustment agreed in Budget 2023. Excluded are as yet undrawn contingency funding for the Whakaari/White Island prosecution and appeals process (\$5.396m single year) and to support WorkSafe's service realignment (\$7.00m single year).

- \$0.396m for the Diversity Works Trust.
- \$0.015m for the Industrial Relations Foundation.
- \$1.885m for New Zealand’s participation in the International Labour Organisation.

*Consultancy and Contractor Costs within your Portfolio*

11. MBIE finance conventions consider a wide range of activities and spending to be “contractor” and “consultancy” spend. For example, legal services (e.g. from Crown Law) are charged as consultancy spending, as are court fees.
12. The ERES and HSW policy teams have \$0.320m and \$0.107m respectively budgeted for non-FTE capability and services. This includes the engagement of legal advice from MBIE Legal and Crown Law (a necessity for the delivery of regulatory policy), the purchase of internal operational policy support, expert technical advice, and other contracted services as the work programme requires.
13. The Employment Services branch does not currently directly hire any contractors. However, other MBIE branches providing services to Employment Services branch may use contractors (e.g. ICT projects). In terms of consultancy spending, the Employment Services branch is currently forecasting a \$1.089m spend for the rest of the financial year (excluding work relating to Fair Pay Agreements). Most of this is required to maintain service delivery levels as detailed in Table 1.

Table1: Employment Services Branch Consultancy 2023/24 expenditure as of November 2023

Category	Forecast spend for Nov 2023 – Jun 2024	Notes
Non-discretionary spend	\$408,530	This includes filing fees, legal advice and services (e.g. from Crown Law), translation and interpretation services. It also includes services for the Employment Relations Authority and Remuneration Authority.
Committed spend	\$355,000	This includes an annual survey of employers and employees including on migrant exploitation and other research and surveys.
Discretionary spend	\$325,500	The bulk of this (\$220,500) is external surge capacity to deliver mediation services. We are considering the feasibility of converting this funding into in-house roles.

*Key Features of the ERES System Funding*

14. ERES system policy teams and the Employment Services branch receive departmental funding from the Crown. The ERA’s operations are funded through a mixture of non-departmental funding (\$7.621m in 23/24 for members’ salaries and allowances) and departmental funding amounting to \$3.865m in 2023/24 to enable the Employment Services branch to meet the ERA’s direct operational support needs.

*Key Features of the HSW System Funding*

15. By comparison, funding for the HSW system is primarily recovered from levy funding sources. Specifically, MBIE’s Health and Safety Policy team is funded through the Health and Safety at Work Levy, and WorkSafe appropriated funding is provided for by the Health and Safety at Work Levy (approximately 94% of its appropriated funding in 2023/24), the Major Hazard Facilities Levy, and the Electricity and Gas Safety Levies.

16. This has implications for any savings and reprioritisation you may wish to undertake in this part of your portfolio, as levy funding can only be utilised for the purposes it is collected – meaning savings from either Health and Safety Policy or WorkSafe can be returned to the Levy memorandum account, or repurposed within the HSW system, but cannot be returned to the Crown accounts for use outside of the health and safety portfolio.

## **The Recent History of Funding in Your Portfolio**

### *MBIE Workplace Relations and Safety Policy*

17. MBIE has not received any new ongoing investment in its Workplace Relations and Safety Policy capability over the last five years. In Budget 2020, a one-off investment of \$0.300m was made to support Employment Policy advice, and in Budget 2021 the Health and Safety Policy team received time-limited funding to review and reform adventure activities regulations in the wake of the Whakaari/White Island tragedy.

### *MBIE Employment Services*

18. Operational activities are funded through the Employment Relations Services appropriation in Vote Labour Market (\$63.231m in 23/24). In recent years, various initiatives with a mix of ongoing and fixed-term funding have resulted in fluctuations in the Employment Relations Services appropriation up and down.
19. Over the last five years MBIE and the ERA have received the following new ongoing operational funding:
- \$2.212m to increase baseline funding (introduced in 2023/24 and decreasing to \$2.077m ongoing from 24/25).
  - \$1.999m for the Holidays Act work programme (introduced in 2022/23 - decreasing to \$0.831m ongoing from 2025/26).
  - \$6.36m for the Migrant Exploitation work programme (introduced in 2020/21).
  - \$12.952m<sup>6</sup> for the Fair Payment Agreements work programme (introduced in 2021/22)
  - \$4.320m for the ERA (introduced in 23/24 as \$2.657m for the partial year and increasing to \$4.320m in 26/27 and outyears).
20. Additionally, fixed term funding was also received between 2018/19 and 2022/23 to deliver time-limited work to deliver specific activities on pay equity implementation, FPAs, remediation of Holidays Act non-compliance, tackling migrant exploitation, the Māori Employment Action Plan, operational baseline funding, and COVID surge funding. All this fixed-term funding has ended by 2023/24.

### *ERA Member Salaries*

21. Non-departmental funding for the ERA members' salaries has increased in recent years, from \$4.361m in 2020/21, through to \$7.621m in 2023/24 and is scheduled to rise to \$8.657m in 2024/25 as membership increases. It also increases annually as a permanent legislative authority (PLA) to reflect any Remuneration Authority determinations on ERA member salaries.

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<sup>6</sup> This is the 2023/24 total, which will rise to \$13.211m in 2024/25 due to one-off set-up costs, before dropping again in outyears.



## *WorkSafe New Zealand*

22. Over the last five years, WorkSafe has received the following new, ongoing operational funding of approximately \$36m per annum<sup>7</sup> for:
- \$16.810m to increase capacity (Budget 2019).
  - \$0.070m to support the Kigali Amendment to the Montreal Protocol.
  - \$5.000m for a work-related health programme (Budget 2019).
  - \$5.300m for ongoing modernisation programme (Budget 2019).
  - \$1.030m ongoing to implement Plant and Structures regulatory reform (Budget 2022).
  - \$6.791m for remuneration, inflationary and ICT cost pressures (Budget 2023).
  - \$0.22m through an adjustment to Major Hazard Facilities Fees and Levies.
  - \$5.409m to fund Public Sector Pay Adjustment<sup>8</sup> (Budget 2023).
  - \$1.006m for coronial and victim support services (August 2023).
23. The previous Government also provided fixed-term funding for a range of activities including WorkSafe's contributions to the COVID-19 response, implementation of proposed Plant and Structures regulatory reform, and costs associated with both WorkSafe's legal and regulatory responses to the Whakaari/White Island tragedy. All fixed term funding will have wound up at the end of the 2023/24 financial year.
24. In September 2023, the previous Government agreed to place \$7.000m in contingency to support WorkSafe against unanticipated pressures arising during its current restructure.

## **Opportunities for Reprioritisation in your Portfolio**

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25. As noted in paragraph 4, MBIE has identified three broad opportunities for savings and reprioritisation within your portfolio. The rationale and trade-offs associated with each opportunity are detailed below.

### **Departmental Savings Opportunity: MBIE Workplace Relations and Safety Policy**

26. MBIE has a multi-category appropriation in each of its Votes, these all cover a range of policy functions to provide flexibility in delivering against government priorities. We are proposing a 10% reduction for the activity as a whole. The current allocation of resourcing reflects existing work programmes, therefore we recommend that MBIE Ministers discuss how best to allocate the remaining 90% across portfolios, given the incoming Government's priorities.

### **Departmental Savings and Reprioritisation Opportunity: Winding-up the FPA Work Programme**

27. MBIE and the ERA received funding in Budgets 2021 and 2022 to operationalise the FPA system. To allow for recruitment and training for effective operations, operational capacity for FPAs was brought online ahead of the anticipated go-live date (1 December 2022), and in sequence. Through the Budget process, it was also agreed that MBIE and the ERA would use FPA-funded resources to support existing employment services until any FPA casework commenced given uncertainties over how processes would progress, such as in the ERA. In addition to providing vital capacity for core employment services, this also ensured any new

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<sup>7</sup> Amount appropriated for these items in the 2023/24 financial year.

<sup>8</sup> Funding held in Contingency and not yet appropriated.

mediators, Labour Inspectors and ERA members would be fully trained when FPA-related work arose.

28. With the FPA system being repealed<sup>9</sup>, some savings can be made from 2024/25 in the three appropriations that received FPA increases, as detailed in Table 2.

Table 2: FPA Budget and Proposed Savings/Reprioritisation

Appropriation	2024/25 budget	Proposed savings and reprioritisations (2024/25)	FTE impact
<i>Employment Relations Services</i> (Departmental)	\$63.848m, of which <b>\$13.211m</b> was provided through Fair Pay Agreement Budget bids.	Savings of <b>\$9.406m</b> returned to Crown. Reprioritisation of remaining <b>\$3.805m</b> for general employment relations services.	37 FTE
<i>Employment Relations Authority Members' Salaries and Allowances PLA</i> (Non-departmental)	\$8.657m <sup>10</sup> , of which <b>\$1.771m</b> was provided through Fair Pay Agreement Budget bids.	Savings of <b>\$1.235m</b> returned to Crown. Reprioritisation of remaining <b>\$0.536m</b> .	5 ERA members (roles currently vacant)
<i>Support for Fair Pay Agreements and Screen Industry occupational bargaining</i> (Non-departmental)	\$0.994m, of which <b>\$0.750m</b> was earmarked for Fair Pay Agreements. Remainder of appropriation is grants for bargaining processes under different legislation, the Screen Industry Workers Act 2022.	Savings of <b>\$0.750m</b> returned to Crown.	N/A
Total		Savings of <b>\$11.391m</b> . Reprioritisation of <b>\$4.341m</b> .	37 FTE and 5 ERA members

29. The reprioritisation of \$3.805m departmental funding and \$0.536m non-departmental funding above will allow MBIE and the ERA to maintain service delivery levels under general employment legislation. Given delays in FPA legislation coming into force and the early stage of FPA bargaining processes, FPA-funded resources are helping meet general demand for employment relations services. The proposed reprioritisation above would provide:
- \$1.017m for the Labour Inspectorate to effectively service the Recognised Seasonal Employer (RSE) scheme, which has grown from 5,000 to 19,500 workers while funding has remained flat since 2007,
  - \$1.013m for triage and Labour Inspectorate resourcing to meet significant increases in migrant exploitation complaints beyond Budget 20-funded levels, with over 1,541 reports received in the 23/24 year to date alone<sup>11</sup>,
  - \$1.267m to meet growing demand for dispute resolution services, which we expect to continue to grow as restructuring and redundancies rise under current economic

<sup>9</sup> Briefing Ref 2324-0918.

<sup>10</sup> The appropriation rises in 24/25 due to the new Budget 23-funded ERA Members. This is only funded part-year in 2023/24 to account for recruitment of the positions, but full year in out years.

<sup>11</sup> The figure of 1,541 complaints of exploitation received July-November 2023 compares to a total of 933 complaints received for the full-year 2022/23.

conditions and will require rapid, easy to access services for employers and employees to avoid escalation through the judicial system, and

- d. \$1.044m for two ERA members' salaries and associated operational support.

### **Departmental Expenditure: Evidence and Insights**

- 30. As part of the regulatory function, Workplace Relations and Safety Policy and Employment Services use current funding to purchase research, evaluation and monitoring services from the Workforce and Workplace team within Evidence and Insights, part of the Data, Insights, and Intelligence branch of MBIE. We then work with the team to identify priority research, evaluation and monitoring projects across the portfolio. There are currently 11.7 FTEs dedicated to workforce and workplace E&I, whose work informs decisions within MBIE and across Government about workplace and employment relations issues, and what is happening in the wider labour market.
- 31. Data, Insights, and Intelligence has undertaken its own savings and reprioritisation exercise looking at budgeted vacancies within E&I, which will not impact on its capacity or capability to undertake its role in relation to your portfolio. It would also be possible to reduce the funding we provide to the E&I Branch, but the trade-off would be less support for research, evaluation, and monitoring. As such, we do not propose any savings in this area of our expenditure be considered until such time as we have discussed your work programme and priorities for the coming term of government.

### **Departmental Expenditure: MBIE's Discretionary Expenditure and Corporate Functions**

- 32. In addition to the whole-of-MBIE approach being taken to the policy function, organisational consideration is also being given to:
  - i. *Discretionary Expenditure*: A 15% reduction in discretionary spend such as travel, conferences, training, and recruitment costs, and
  - ii. *Core Services*: Savings in core services, such as Human Resources, Information Technology and other corporate costs are also under consideration.
- 33. These savings will be apportioned out to portfolios once Ministers have provided direction on which options they want to pursue. This is addressed in the separate ownership fiscal briefing [Ref 2324-0917].

### **Non-Departmental Savings Opportunities**

- 34. As Minister for Workplace Relations and Safety, you are also able to undertake savings and reprioritisation exercises in relation to the non-departmental expenditure in your portfolio.

#### *Employment Relations Authority*

- 35. Savings in the Crown's non-departmental investment in the ERA can only be realised by reducing the number of ERA members. Once appointed, members can only be removed before the conclusion of their term for reasons set out in the Employment Relations Act (e.g. serious misconduct or bankruptcy), unless they resign.
- 36. There are currently 26 ERA members, with this number reducing to 24 in March 2024.<sup>12</sup> The ERA member salary appropriation has funding for 31 ERA members. Of these, seven members were funded through FPAs, and a further seven new roles were funded in Budget 23 (these are currently vacant).
- 37. Given the same number of member roles were funded through FPAs and created through Budget 23, it is possible to repurpose the Budget 23 funding to retain the seven FPA

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<sup>12</sup> One member has been temporarily appointed until the end of 2023 (Alastair Dumbleton), and another member will retire at the end of his current term in February 2024 (Mike Loftus).

members who have already been appointed and are currently in their roles. This will free up FPA resourcing to be returned to the Crown as savings.

38. As the lowest level tribunal resolving disputes in the employment system, the ERA is currently facing significant demands. Any reduction in the ERA's capacity will be a trade-off against timeliness for employers and employees seeking determinations, undoing recent progress in reducing wait times. On that basis, of the funding for seven ERA members from FPAs, we recommend reprioritising funding for two members, and returning funding for the remaining five out of seven, reflected in Table 2 above.
39. This would result in two ERA member vacancies and once filled would maintain the number of ERA members at the 26 FTE members presently appointed in 2023.

#### *WorkSafe New Zealand*

40. We do not consider that there are opportunities to yield savings in this part of your portfolio without placing significant pressure on WorkSafe and increasing the risk of regulatory failure in the health and safety system.
41. WorkSafe is currently facing a number of financial pressures largely driven by an unsustainable approach to growth in recent years. The organisation has moved swiftly to stabilise the organisation since these issues were raised with the previous Minister, which will require it to shed approximately 128 roles and substantially reduce its consultancy and contractor expenditure, as well as scaling back a range of non-frontline services to allow it to operate within its existing baseline. This process will enable it to operate within its funding envelope but will leave the organisation with minimal capacity to address unanticipated external pressures or manage any financial pressures should full anticipated savings not be realised for any reason<sup>13</sup>.
42. MBIE is supportive of this organisational realignment, and do not recommend any consideration of savings or new funding until this process is complete. WorkSafe has been informed of the commentary in this paper.
43. Further detail on these issues, and your wider role and responsibilities with regard to WorkSafe, will be provided in a forthcoming briefing from MBIE's Entity Performance and Investment branch [Ref 2324-0988].
44. In the longer term, you will have opportunities to consider funding arrangements for the health and safety system Confidential advice to Government  
At present, levy revenue exceeds government expenditure on the health and safety system, meaning there is a surplus in the levy memorandum account (although we are aware of likely future calls on this revenue from both WorkSafe and other organisations with current or proposed health and safety designations<sup>14</sup>). While a small surplus is prudent to allow for the funding of government priorities and resourcing agencies to meet unexpected pressures, the appropriate level for any such surplus is discretionary and could be a point of consideration when reviewing the levy rate and its management.

#### *Other Areas of Portfolio Expenditure*

45. As detailed in paragraph 10, your portfolio is also responsible for the funding of several other small entities – the Remuneration Authority, the Mines Rescue Trust, the Diversity Works Trust, and the Industrial Relations Foundation, as well as funding our participation in the ILO.

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<sup>13</sup> In August 2023 Cabinet agreed to establish a \$7.000m contingency, to be drawn from upon request to the Minister of Finance and Minister for Workplace Relations and Safety in instances where WorkSafe identified such pressures. There has yet to be any claim on this funding.

<sup>14</sup> Both Maritime New Zealand and the Civil Aviation Authority receive levy funding to undertake health and safety activities they are designated to under the Health and Safety at Work Act 2015, and work is also underway on a possible designation for Waka Kotahi, which would likely result in that agency also seeking levy funding.

46. We do not recommend taking savings from any of these areas of expenditure. The ILO spending is effectively New Zealand's membership fee, and the Mines Rescue Trust is funded by a discrete 'user pays' levy based on expected Trust costs. The small scale and discrete functions of the other organisations mean negligible savings would be viable while still retaining their core functions. As such, to yield meaningful savings would require fundamental decisions about the ongoing roles of these organisations in the ERES and HSW regulatory systems.

## Confidential advice to Government

### Known Funding Pressures in your Portfolio

48. There are additionally a number of known funding pressures across your portfolio, which will need to be considered when developing your work programme and assessing opportunities for savings and reprioritisation. Specifically:
- **Implementation of modern slavery legislation and a pay gap reporting system** – the previous Government made Cabinet decisions to progress a modern slavery disclosure regime and a pay gap reporting system. Further policy work is needed to complete the design of these. The development of the systems as currently agreed will require a register and regulatory functions to support them. These have not been funded. If the policies are to progress in their current form, funding would be required. If funding is not available, it would be necessary to change the design of the policies to reduce the implementation costs.
  - **Indo-Pacific Economic Framework (IPEF) Supply Chain Agreement** – In order to secure the supply chain resilience benefits of the US-led agreement concluded in May 2023, the New Zealand Government committed to labour standards processes. This includes a mechanism for receiving complaints about labour rights in specific workplaces in IPEF countries, which would require new process and capability. MBIE is working with MFAT to understand the legal and reputational risks of establishing more limited processes that could conserve resources.
49. Your decisions about whether to continue, change, or stop work in these areas will have a direct impact on the extent of savings and reprioritisation that may be possible or necessary within your portfolio, and we expect to provide you with further advice on this as part of discussions about your work programme.

### Next steps

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50. Officials from MBIE will be available to discuss this paper, and your thoughts on the resourcing of the Workplace Relations and Safety portfolio at your convenience, and to provide you with support in advance of any discussions with your colleagues regarding MBIE's policy expenditure.
51. We also expect that portfolio resourcing will factor into the planning of your work programme, which we anticipate will be a focus of our early discussions with you.
52. Additionally, as the proposals we have presented in this paper have been undertaken as part of an MBIE-wide fiscal sustainability exercise, there is also the possibility the Minister responsible for MBIE may wish to discuss approaches to savings and reprioritisation in your portfolio either with you, or as part of a wider discussion with MBIE Ministers. We will be

available to provide you with analysis and advice to support your participation in any such engagement.

## **Annex**

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### **Annex One: Fiscal Summary for the Workplace Relations and Safety Portfolio**

## Annex One: Fiscal Summary for the Workplace Relations and Safety Portfolio

### Current Baseline

The following table sets out the appropriated funding for the Workplace Relations and Safety Portfolio by funding source. Departmental funding is received by MBIE to directly provide services. Non-departmental funding is provided via MBIE to other agencies, including Crown Entities and grant recipients.

Changes to Crown funded activities will have a direct impact on the Government's financial position. Changes to Third Party funded activity will generally have no impact on the Government's financial position, as most Third Party charges are set on a cost-recovery basis.

Baseline \$million	2023/24	2024/25	2025/26	2026/27	2027/28 & Outers	Current FTE <sup>1</sup>
Dept	71.532	72.161	71.559	71.382	71.382	322.8 <sup>2</sup>
Non-Dept	11.961	12.797	13.375	13.452	13.452	n/a
<b>Total Crown</b>	<b>83.493</b>	<b>84.958</b>	<b>84.934</b>	<b>84.834</b>	<b>84.834</b>	<b>322.8</b>
Dept.	3.240	3.400	3.570	3.570	3.570	9.9
Non-Dept	138.888	135.881	135.591	135.591	135.591	697.8 <sup>3</sup>
<b>Total Third Party<sup>4</sup></b>	<b>142.128</b>	<b>139.281</b>	<b>139.16</b>	<b>139.16</b>	<b>139.16</b>	<b>707.7</b>

<sup>1</sup> Excludes current vacancies.

<sup>2</sup> Excludes MBIE staff funded through the Health and Safety at Work Levy (captured in the 3<sup>rd</sup> party dept row).

<sup>3</sup> Restructure expected to reduce this by approximately 128 roles – likely within financial year - but does not impact funding levels.

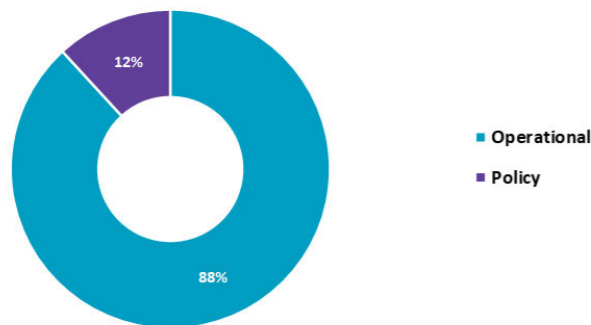
<sup>4</sup> Third Party funding includes Health and Safety at Work Levy (WorkSafe and MBIE H&S Policy), Major Hazard Facilities Levy (WorkSafe).

### People Resources in MBIE

The Workplace Relations and Safety Portfolio is supported by MBIE 332.7 FTE (not including current vacancies), which is 5.2% of total MBIE workforce. This is broken down as follows:

#### Portfolio by Policy/Operational Function

In the Workplace Relations and Safety portfolio, 88% is operational and 12% is policy. Enablement functions (corporate, ICT) have not been included.



#### Portfolio FTE by Function

Function	Portfolio FTE	Portfolio %
Operational	293.4	88%
Policy	39.3	12%
<b>Total staff</b>	<b>332.7</b>	<b>100%</b>

### Fiscal Sustainability

The following table summarises options identified for reprioritisation within Workplace Relations and Safety Portfolio (either within the portfolio, or for return to the centre). This includes programmes that could be stopped, and others that can be scaled.

Option for reprioritisation	Fiscal implication \$million pa	FTE implication	Implementation	Comment
Savings from Ceasing Fair Pay Agreement Work Programme*	\$11.391m (\$9.406m Dept)	37	To be managed through Employment Services branch	Also includes removal of 5 vacant Employment Relations Authority positions (non FTE)
Reprioritisation from Ceasing Fair Pay Agreement Work Programme	\$4.341m		To be managed through Employment Services Branch	Reprioritisation will allow MBIE and the ERA to maintain service delivery levels under general employment legislation
A share of cross-MBIE reprioritisation options	tbc	tbc	These savings will be apportioned to portfolios, following discussions with Ministers	The MBIE ownership fiscal briefing includes options for reductions in core services (both immediate efficiencies, and further "right-sizing" following portfolio decisions), 15% reduction in specified discretionary spend, and 10% reduction in policy capacity with resources to be redirected based on Government priorities
<b>Total Savings</b>	<b>\$11.391m</b>	<b>37</b>		This is 5.1% percent of the portfolio (12.4% Departmental spend)

The Fiscal Briefing has further detail on options and the implications of these choices. Items marked \*are drawn from, or consistent with, Manifesto Commitments and/or the Coalition Agreement.

Options with FTE implications will need to be phased and may incur transition costs.

## Manifesto Commitments/Coalition Agreement

The Government Coalition has made a number of commitments in, or relating to, the Workplace Relations and Safety Portfolio. The high-level costing estimates are set out below these manifesto commitments are as follows:

Source	Manifesto Commitment/Coalition Agreement	High level cost estimate \$million pa	FTE implication	Implementation	Comment on estimates
<b>National</b>	Reintroduction of 90 Day trials	Policy work costs to be managed through reprioritisation within policy baselines	To be managed within existing capacity	tbc	Assumes work to be resourced from within existing policy resource through internal reprioritisation
	Shared Leave/Paid Parental Leave	Policy work costs to be managed through reprioritisation within policy baselines	To be managed within existing capacity	tbc	Assumes work to be resourced from within existing policy resource through internal reprioritisation
	Review of Scaffolding Rules (part of Construction Policy rather than manifesto)	Policy work costs to be managed through reprioritisation within policy baselines	To be managed within existing capacity	tbc	Assumes work to be resourced from within existing policy resource through internal reprioritisation
<b>Act</b>	Repeal the Fair Pay Agreement regime by Christmas 2023	Policy work costs to be managed through reprioritisation within policy baselines	To be managed within existing capacity	By 24/12/2023	Assumes work to be resourced from within existing policy resource through internal reprioritisation
	Reform health and safety law and regulations	Policy work costs to be managed through reprioritisation within policy baselines. Implementation costs tbc.	To be managed within existing capacity	tbc	Assumes work to be resourced from within existing policy resource through internal reprioritisation
	Expand 90-day trials to all businesses	Policy work costs to be managed through reprioritisation within policy baselines	To be managed within existing capacity	tbc	Assumes work to be resourced from within existing policy resource through internal reprioritisation
	Consider simplifying personal grievances	Initial policy work costs to be managed through reprioritisation within policy baselines	To be managed within existing capacity	tbc	Assumes work to be resourced from within existing policy resource through internal reprioritisation
	Maintain the status quo that contractors who have explicitly signed up for a contracting agreement can't challenge their employment status.	Policy work costs to be managed through reprioritisation within policy baselines	To be managed within existing capacity	tbc	Assumes work to be resourced from within existing policy resource through internal reprioritisation
<b>NZ First</b>	Commit to moderate increases to the minimum wage every year.	Policy work costs to be managed through reprioritisation within policy baselines	To be managed within existing capacity	tbc	Assumes work to be resourced from within existing policy resource through internal reprioritisation
	Commit to enforcement and action to ensure those found responsible for the abuse of migrant workers face appropriate consequences;	Policy work costs to be managed through reprioritisation within policy baselines. Operational costs tbc.	To be managed within existing capacity	tbc	Assumes work to be resourced from within existing policy resource through internal reprioritisation
	Ensure a "National Interest Test" is undertaken before New Zealand accepts any agreements from the UN and its agencies that limit national decision-making and reconfirm New Zealand's domestic law holds primacy over any international agreements.	Policy work costs to be managed through reprioritisation within policy baselines	To be managed within existing capacity	tbc	Assumes work to be resourced from within existing policy resource through internal reprioritisation