



MINISTRY OF
SOCIAL DEVELOPMENT
Te Manatū Whakahiato Ora

**Student Allowance Review Hearing
Co-ordinator's Information Pack**

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Contents

Introduction	3
Overview	3
Report writer responsibilities	4
NZUSA waiver process	4
SAR Co-ordinator process	4
SAR flowchart	6
Administration	7
Where to find letters, templates and guides	7
Appropriate letterhead to use for correspondence	7
Solicitors, agents and support people	7
Trespassed clients	7
Remote Client Unit	7
Timeliness Standards	8
Problems arranging hearing	8
Changes in circumstances for NZUSA members	8
Setting up the room for a hearing	8
Process for postponements	9
Adjournments	9
Process when new evidence is received or requested	10

Introduction

This information is to assist you in your role of Student Allowance Review Hearing Co-ordinator.

The Student Allowance Review Hearing Co-ordinator (the Co-ordinator) works on behalf of the Student Allowance Review Panel (the Review Panel) and has an important role to play in ensuring that requests for review are addressed in a consistent, professional and timely manner. The performance of the Co-ordinator impacts on MSD's national performance in reporting which is monitored via Corporate and Governance at the Ministry of Social Development (the Ministry).

To get a full overview of the role of the Co-ordinator, this information pack should be read in conjunction with the *Student Allowance Review Panel Members' Information Pack* and information on *doogle*.

Overview

Student Allowance Review Hearings (the Hearings) are a chance for a review panel to take a fresh look at decisions made by the Ministry.

The Review Panel is established to make correct and fair decisions with regard to procedure and law.

The Review Panel's process is an important part of ensuring that correct decisions are made by the Ministry on a case-by-case basis. The Hearing is an opportunity for the applicant to explain why they disagree with the decision, and for the Review Panel to re-look at the Ministry's decision.

The Co-ordinator's role is to ensure that the Hearings happen in an efficient and timely manner. The Co-ordinator will also act as a distribution point for information and requests.

The following pages set out the processes and guidelines for Co-ordinators to ensure that the Hearing process runs smoothly and within designated timeframes.

Student Allowance Review (SAR) report writer responsibilities

The report writer is the person who has prepared the SAR report. The report writer is responsible for:

- determining whether the applicant wants a SAR hearing and whether they want to attend
- obtaining a signed NZUSA waiver for the SAR hearing.

The StudyLink Report Writing Team is responsible for:

- identifying performance trends in sites within their region/group
- maintaining a current list of all New Zealand Union of Students' Association (NZUSA) Panel Advisors
- providing a contact point for advocacy groups
- providing a contact point for National Office Review of Decision (ROD) team
- calculating and arranging payment for the NZUSA advisor attendance and administration fee payable to the NZUSA.

NZUSA waiver process – report writer responsibility

A SAR hearing can not be held without a signed NZUSA waiver. Verbal permission from the student for the NZUSA representative to attend the hearing gives MSD permission to start the process, but to protect the business from privacy breaches, the Ministry can not send the student's information to a third party without written permission.

- At the internal review 14 day stage, the report writer phones the applicant to discuss the final decision options and asks if they would like their review to be heard by the Secretary alone or Secretary at a SAR hearing. If they opt in to the hearing, they will be asked if they wish to attend the hearing or have it heard on papers only.
- If the student opts into the hearing, regardless of whether they wish to attend, the report writer advises them they must sign and return the NZUSA waiver within two weeks or the hearing will not proceed and the Secretary alone will make the decision. The report writer asks the student if there is any reason that may delay the waiver being returned in this timeframe; if there is, this must be taken into consideration when determining the date the waiver is required by.
- The waiver is sent to the student with a letter containing the "Guide to Review Hearings" and a self-addressed envelope. The report writer will follow up twice with the student during the 14 day period for the return of the waiver.
- If the waiver has not been received at the 14 day deadline and the report writer has not been able to contact the applicant regarding this, a letter is sent to the applicant advising them the decision will proceed to the Secretary alone. (The applicant has one week from this date to supply the waiver before the decision passes to the Secretary alone. This allows a total of 21 days for the waiver to be received.) There is discretion to extend this timeframe if the applicant has genuine reasons for the delay.
- If the waiver is returned within the time frame, the report writer will prepare the SAR report.

Once the SAR report is signed by a manager, the report writer will take a copy for themselves and send the original report to the SAR co-ordinator. (If the applicant has advised they do not wish to attend the hearing, the report writer will highlight that to the co-ordinator so that the hearing can occur (where practicable and without undue delay) on the same day as another hearing so as to efficiently use resources).

The Co-ordinator's Process

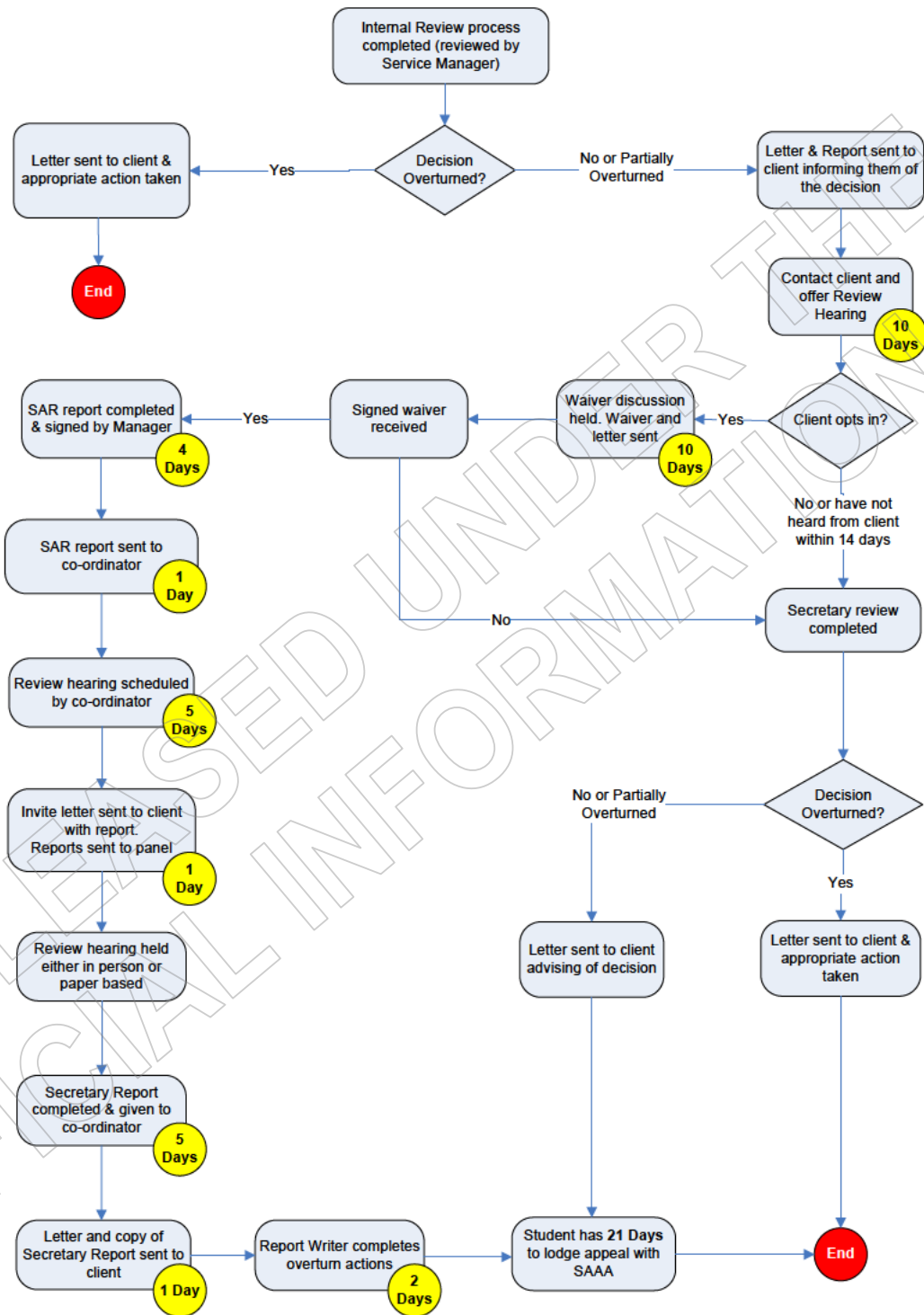
- The Co-ordinator contacts the applicant to arrange a date and time for the hearing and confirm if the applicant will attend the hearing or if this is to be held on papers only. Once this is confirmed, the Co-ordinator makes 4 or 5 copies of the report¹.
- A *Hearing invitation* letter is sent to the applicant along with a copy of the SAR report. Invitation letters are also sent to the panel along with copies of the SAR

¹ One copy each for all three panel members, one for the Ministry presenter and one for the student if they are attending

report. A copy of the Chairperson checklist is to be sent to the Chairperson. Copies of these letters must be saved by the Co-ordinator to be returned to the report writer with all documents once the hearing process is complete.

- If the applicant can not be contacted after reasonable attempts to arrange a hearing date, the Co-ordinator arranges one. If the Co-ordinator makes contact with the applicant and a hearing date can not be agreed on without good reason, the Co-ordinator is to set a date and prepare a submission to the Secretary. The submission will outline why this date has been set and the Secretary then makes a final decision on the hearing date. There must have been reasonable attempts made to arrange a date with the applicant.
- If the applicant chooses to opt-out of the full Hearing process the decision will be made by the Secretary alone. For example, the applicant advises they still want to review the decision but don't want a hearing anymore. If this occurs, the co-ordinator can return to full file to the Report Writer who will arrange for a Secretary to make the decision alone. Any information sent to the NZUSA representative will need to be retrieved by the Co-ordinator.
- If the applicant advises they want their hearing to progress, but do not want to attend, the Co-ordinator schedules a paper-based Hearing (and the Ministry presenter is not required) where the panel only convenes.
- If the applicant advises that they are bringing a solicitor or advocate to the Hearing, the Co-ordinator advises the Ministry so an MSD solicitor can attend if appropriate.
- The Co-ordinator is responsible for receiving and recording any new information received at any time. They must ensure the information is sent to all parties (depending on which stage the review is at - see page 8 for this process). The hearing may need to be rescheduled if there is significant new information to be considered or responded to.
- The Hearing is then held. If the applicant doesn't attend, the review is held on papers only (and the Ministry presenter doesn't appear either). Even if the applicant has requested a paper based hearing, the Ministry should always be ready to appear and present the Ministry's case should the applicant decide to appear at the last minute so the co-ordinator should ensure that someone is scheduled on stand-by.
- After the Hearing, the Co-ordinator ensures the *Report of the Secretary* is completed by the Secretary. The original Hearing outcome letter and a copy of the Report of the Secretary are sent to the applicant by the co-ordinator. A copy of the Hearing outcome letter and the original *Report of the Secretary* should also be provided to the Report Writer who completed the internal report along with all documents pertaining to the case.

Student Allowance Review Process



Administration

Where to find letters, templates and guides

All the letters, templates and guides mentioned in this information pack are available on *doogle*:

<http://doogle.ssi.govt.nz/resources/helping-clients/forms-templates/students/student-allowance-review-hearing.html>.

Appropriate letterhead to use for correspondence

Ministry letterhead is required on all correspondence from the Secretary. This is to ensure impartiality.

All correspondence regarding the Review of Decision is deemed to have been completed at Business Unit level, so Business Unit letterhead must be used.

All correspondence sent by the Co-ordinator requires Ministry letterhead.

Professional representation, agents and support people

The applicant is entitled to bring his or her own support person to the Hearing. If the applicant indicates to the report writer that an advocate or professional will be attending the Hearing, the Co-ordinator will be informed.

If the applicant is bringing a professional who is attending in an official capacity (e.g. a solicitor or accountant), it may be necessary for the Ministry to arrange their own professional representation. The Co-ordinator must be notified of this, and must contact the report writer's manager who will make arrangements for a corresponding Ministry official to attend if deemed appropriate. The Co-ordinator is responsible for informing the applicant of any additional attendees from the Ministry.

If the applicant has an agent, all communications should be sent to the agent as well as the applicant.

Trespassed clients

If the applicant has a current trespass order, the Hearing can proceed on a paper-only basis, or they can appoint an agent (if they haven't already done so) to represent them at the Hearing.

Remote Client Unit

The Remote Client Unit has been established to provide an avenue for people who have been assessed as posing a high risk to the safety of Ministry staff in service centres nationwide to continue to access Ministry services. If an applicant has been referred to the Remote Client Unit, please send any Review of Decisions they may lodge through to the Remote Client Unit to manage. Options available in these cases may include:

- paper-based Hearings
- appointment of an agent to represent the applicant
- conducting the Hearing via teleconference / videoconference.

Please discuss such cases with the StudyLink Report Writing Team Manager.

Timeliness standards

Refer to the tables and flowchart (Pages 6-10 of the members' panel pack) for the Hearing timeliness standards. There is a guideline time allocation for each step, however it is a national standard that the whole process should take a maximum of 50 working days from the time the applicant submits the Review of Decision to when the final *Report of the Secretary* goes out. There are 109 working days available for Out-of-Time cases.

Challenges arranging SAR Hearing

If, at any stage, the Co-ordinator is not happy with the progress of scheduling a Hearing, they need to escalate the issue to the Manager Report Writing.

If the student wishes to physically attend a Hearing rather than a video-conference, the Manager Report Writing should be advised as budget considerations will need to occur and the Manager, Student Support Centre will be liaised with. The reasons why the hearing cannot occur via video-conference will also be considered.

Changes in circumstances for NZUSA advisors

A national database is held of all NZUSA Panel Advisors. If the Co-ordinator becomes aware of any change in circumstances of any NZUSA advisor's you will need to update the StudyLink Report Writing Team Manager. These changes could be:

- A Panel Advisor would like to resign
- Additional Panel Advisors are required
- A Panel Advisor changes address or other contact details

The Student Allowance Review Hearing

Setting up – Video conference (first preference)

When you are preparing for a Hearing you will need the following:

- Book Video conference facilities at all required sites. Locations of facilities can be found here <http://doogle.ssi.govt.nz/documents/working-here/working-for-us/sustainability/list-of-video-conferencing-sites-december-2014.xlsx>
- A contact person at each site to meet the attendees, who is fully briefed with who to expect and at what time. They should remain available until such time as the Video-conference has connected entirely and the hearing can commence. They should also be available at the end of the Hearing to terminate the use of VC facilities at that end if required, reset the room after use, and collect any paper work from the NZUSA advisor for destruction. Any other remaining paperwork should be returned to the Co-ordinator to assess its inclusion in the formal paperwork.
- Ensure that the VC facilities are in a suitable room (e.g. an outside person cannot observe proceedings, sufficient lighting, comfortable temperature, access for people with disabilities)
- A table and chairs that all attendees at that location can sit at
- Paper, pens and calculator

- Copies of papers submitted
- If the applicant is attending the Hearing, the co-ordinator needs to ensure there is a presenter who will represent the Ministry's position in the Hearing. If required, this person reads the documentation and is not to be a member of the Review Panel
- If possible, there should be a Ministry hearing participant, participating in the VC from a room where external participants are located. E.g. NZUSA advisor and the Ministry Advisor in the same room, or the Applicant in the same room as the Ministry presenter.

Remember to take any specific cultural or language requirements into consideration. This may include arranging an interpreter.

Setting up – Physical hearing

When you are preparing for a Hearing you will need the following (or if held at another site, will need to be co-ordinated):

- A suitable room (e.g. an outside person cannot observe proceedings, sufficient lighting, comfortable temperature, access for people with disabilities)
- A table and chairs that all panel members, applicant and support people can sit at
- Paper, pens and calculator
- Copies of papers submitted
- If the applicant is attending the Hearing, the co-ordinator needs to ensure there is a presenter who will represent the Ministry's position in the Hearing. If required, this person reads the documentation and is not to be a member of the Review Panel
- As the student is physically attending a Hearing, the Manager Report Writing will have addressed any budget considerations with the Manager, Student Support Centre. The reasons why the hearing could occur via video-conference will have been considered if travel costs are involved.

Remember to take any specific cultural or language requirements into consideration. This may include arranging an interpreter.

Process for Postponements

If the applicant advises the Co-ordinator prior to a Hearing that they want a postponement for any reason, this request should be accommodated where it is reasonable to do so. It can be frustrating when there are multiple postponements, however it is the applicant's right to defer a Hearing if, for any reason, that date is not suitable.

It is recommended in this situation that the Co-ordinator liaises with the applicant and request they propose a suitable date that gives them adequate time to prepare, and does not conflict with their schedule. If the applicant has an agent, they are to be contacted to confirm they will be adequately prepared to attend on the new date. If there are multiple postponements from an applicant or their representative, this may require an actual meeting to discuss the issue going forward.

There may be occasions where a hearing date cannot be agreed upon with the applicant. In this situation the Co-ordinator prepares a submission to the Secretary

proposing a set hearing date and the reasons for this. If the Secretary agrees, a hearing date is set and notice is given to the applicant. This does not affect timeliness issues for performance monitoring as long as these delays are noted on page three of the SAR checklist.

Any practice that differs from this should be discussed with the report writer's manager who will consult with relevant legal staff to ensure it is procedurally correct.

Adjournments

Some cases referred to the Review Panel may not be finalised in discussions immediately after the Hearing. The Secretary may decide that further time is needed to consider all submissions made to the Review Panel, or they may request further information be provided by either the applicant or the Ministry.

The Secretary will set the time frame for the further evidence to be supplied. Usually a Hearing can be reconvened within a fortnight of the original date. Under no circumstances should a Hearing be adjourned without a follow-up date being set. This ensures that there is not an unreasonable delay in the Hearing being finalised. The Co-ordinator sets up a reconvened hearing to take place at the end of the time frame.

New Information Received

New information provided prior to the Student Allowance Review Hearing

Any new information provided to the Co-ordinator must also be provided to all other parties (e.g. the Ministry or applicant). The other parties must be given time to consider the additional information before the Hearing. (The co-ordinator undertakes the responsibilities of disseminating information to all relevant parties.) Alternatively, the Hearing can be postponed until the other parties have had sufficient time to consider the additional information. If the Hearing is postponed, it is important that a new date is arranged at the time to avoid undue delays if possible.

New information presented at a Student Allowance Review Hearing

The Secretary must ensure that each party has time to consider any new material, and if necessary an adjournment should be granted for later that day or another Hearing date set. It is important that the Secretary gives both parties a reasonable opportunity to respond to any new information before the Secretary takes account of that new information in their decision making process.

Additional information required for the Secretary to make a decision

If the Secretary requires further information, the Review Panel may adjourn and request further information from the Ministry or the applicant (or both). They may also seek submissions on any aspect of the law. If they do this, both parties will be asked to provide submissions. Such an adjournment may occur while the Review Panel is still present at the Hearing or after they have left. If it is after they have left the Hearing, the Secretary will write to both the Ministry and the applicant (via the Co-ordinator) requesting the further information and setting down a date for the information to be provided. The Secretary has discretion on whether the hearing will need to be reconvened. If a hearing is required, the co-ordinator will arrange this to take place after the evidence deadline. The Secretary will decide whether or not the applicant and the Ministry will need to attend when the Hearing is reconvened.

New information provided after the hearing but before the decision has been sent to the applicant and the Ministry

If new information relating to the decision under review is received, the Secretary needs to consider whether the information would change the decision. Both parties need to be given the opportunity to respond in writing regarding the new information and the Review Panel may need to reconvene if the Secretary needs to take further advice. The information must be included in the *Report of the Secretary*. The co-ordinator undertakes the responsibilities of disseminating information to all relevant parties.

New information provided after the decision has been made and the findings have been sent out to the Applicant in the Report of the Secretary

If new information relating to the decision under review is received, it should be sent to the site that made the original decision to consider, under section 305 (1) if the Education Act 1989. If the new information does not change the decision the applicant needs to be advised why and provided information regarding the option of lodging an appeal to the Student Allowance Appeal Authority.

If new information is presented which may change the decision of the Secretary to the detriment of the applicant, it must relate to a material change of circumstances as opposed to information that could or should have been presented to the Review Panel at the time of the Hearing (see High Court case *Hamidi*). The Ministry has no right of appeal from the Secretary.

If you are unsure about whether the information is a change of circumstances or not, please refer to the report writer's manager who will seek legal advice if appropriate. The co-ordinator undertakes the responsibilities of disseminating information to all relevant parties.