

Observations on the administration of cash benefits

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*Humpty Dumpty sat on a wall,
Humpty Dumpty had a great fall;
All the King's horses and all the King's men
Couldn't put Humpty together again.*

Today, the King's men rushing to put Humpty Dumpty together again would probably carry a first aid kit containing money. Taken every week or month in small doses this substance is believed to be essential for the treatment of many types of 'great falls'. In fact, for many victims of great falls it is virtually the only treatment offered. The principal dispenser of this medicine in New Zealand is the Department of Social Welfare. It is proposed here to examine critically some aspects of the 'putting together again' process undertaken by this Department. Attention will be focussed on administrative procedures, behaviour and attitudes relating to cash benefits dispensed by the Department.¹

I. THE FORMS

To begin with there are the forms. All 'great falls'² are claimed for on a specific set of application forms. In this way, complex human problems are translated into terms which the Department can process in the light of the various statutory requirements. It is trite to observe that these forms are important. This is because the application form together with a completed interviewing sheet represents the claimant to the Department. Hence the vital relationship is not 'Claimant ↔ Department' but 'Claimant → Claimant's form of application ↔ Department'.

The form becomes a surrogate for the claimant. Most of the Department's interaction is with the 'form-person'. Claimants are sometimes referred back to, but even then that reference back is converted into fixed information. To some extent this alienation of the claimant is necessary for efficient claim processing.

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1. This article is based largely on the writer's experiences while working for the 'Weekly Claims' section of a district office of the Department of Social Welfare during a recent vacation period.
2. E.g. sickness, unemployment, old age or having children.

However, it is submitted that the present administrative structure of the Department carries this alienation too far and that as a result the needs of the administrative machine of the Department get priority over the needs of claimants. Irrespective of this necessity, the emphasis given to the forms has great significance for the assessment of claims in several ways.

First, the form filling exercise can and does discourage some people from proceeding with an application. Most application forms have at least fifty spaces for information. Most people have some difficulty completing the forms adequately and many people experience considerable difficulty. This difficulty seems to be caused by the overall complexity of the forms rather than the individual questions. However, some specific questions appear to be unnecessarily complicated. For example, the Application for Sickness Benefit form asks for a statement of "The total amount of salary, wages, or other earnings (including Unemployment Benefit) received by me during the four calendar weeks immediately preceding the date of my incapacity for work was \$. . .".

Secondly, most officers who process the claim only know the claimant through the forms. Two important possible consequences flow from this. First, it is easier to exercise a statutory discretion against the interests of a 'form-person' than the actual person. Secondly, any misrepresentation, misunderstanding or error codified in the forms may, because the processing officer has no other source of information about the claimant, have a disastrous effect on the success of the claim.

Thirdly, even if claimants' general knowledge about the benefit is good, their appreciation of the significance of particular qualifying conditions usually is not. This ignorance can greatly affect the quality of presentation of information contained in the form which subsequently can affect the exercise of a discretion. A good example of this is the 'voluntary unemployment' condition attached to the Unemployment Benefit.³ Often claimants, in their ignorance, present their reasons for termination of employment in a way which adversely affects the quality of their application from the perspective of the Departmental officers who assess that application. If the form is the claimant's agent then it ought to present his case in the best possible light. Obviously the completed form can only do this if the person filling it in is aware of the value the various items of information have for the success of the claim. The importance of this third point is highlighted by the fact that much of the administrative energy of the Department is directed at completing tests and checks which have the effect of excluding people.

II. INTERVIEWING

Once the application form has been completed by the claimant that person or his representative is interviewed by a departmental social worker or clerk. However, most interviewing is completed by the latter as interviewing for cash benefits by social workers is almost exclusively confined to the domestic arena. The Department's attitude to interviewing is perhaps best revealed by an attestation clause to be executed by the interviewing officer on some interviewing sheets. It reads: "I hereby certify that applicant/applicant's wife/applicant's agent has been *interrogated*⁴ fully on all details contained in the application form."

³Section 60(3)(a) Social Security Act 1964.

⁴Emphasis added.

The interview, like the application form, is directed at moulding the person's claim into data capable of assessment by the Department in terms of its statutory boundaries. Interviews concentrate on information relevant to the exercise of any discretion which may have to be exercised and on the question of how much and from what date any benefit ought to be paid. Any other information which the Department thinks might be relevant is usually taken in the form of a statutory declaration.

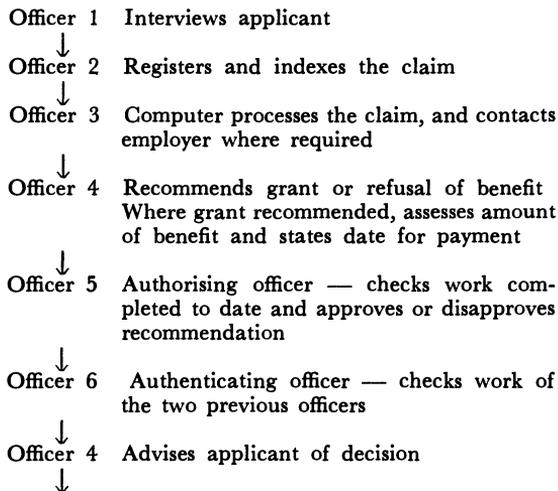
Most interviewers are young, untrained, low in the Department's hierarchy and generally protective of the Department's interests.⁵ Their lack of training is especially relevant to the question of bias as all the interviewing sheets either expressly or impliedly require some value judgments on the interviewer's part. Given the importance other claim processing officers attach to these judgments, an objective judgment is vital to the fairness of the final assessment of the claim.

The most remarkable thing about the interview is the areas it ignores. Because of the structure of the interview as determined by the interviewing sheet an officer allegedly involved in social welfare ignores many social and personal problems which form an integral part of the person's reasons for applying for the benefit. If some aspect of the drama cannot be ignored the social workers are brought in. Generally though, few people are referred by the benefits administrators to the social workers. This is consistent with a view that the resolution of some human drama is subsumed to the money question.

III. PROCESSING OF THE CLAIM INSIDE THE DEPARTMENT

A. Structure of processing

The interview completed, the various forms are gathered together and cast into the administrative production line. The process of abstracting the actual person into the 'form-person' has been effected, and it is most unlikely that the interviewing officer will have more to do with the processing of the claim. The processing of a claim involves a chain of action at least as long as



Where declined and Officer 4 had recommended grant the application is submitted for further consideration by higher officer(s)

5. See generally the comments of A. F. von Tunzelmann: "Administration of Social Welfare Benefits", in *The Welfare State Today* (ed. G. W. R. Palmer), (Wellington, 1977), 289.

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|---------------|---|-----------|--|
| Where granted | { | Officer 7 | Account section — sets up payment system |
| | | ↓ | |
| | } | Officer 8 | Payments section — issues first payment |

This administrative system can take weeks to grind through all its steps. Most claimants wait at least ten to fourteen days for a decision. For a person who is likely to be experiencing financial hardship this can be a considerable delay. Some claimants such as those with dependants may get prompt assistance but this is an exception. Most of this delay can be attributed to what seems to be the basic working proposition of the Department; that is, applicants are presumed not to be entitled to a benefit until proven otherwise. This involves the Department confirming entitlement before granting a benefit. In practice, administration work is carried out in the claimant's time, he or she waits while the Department considers the alleged need.

It is submitted that a lot of claimant frustration caused by administrative delay would be avoided if the Department reversed its working proposition so that any claim that showed *prima facie* entitlement to a benefit be actioned immediately. Confirmation of entitlement could follow the initial grant. Undoubtedly some undeserving or dubious claimants would receive a few weeks' benefit, although the activities of unscrupulous claimants could be controlled by more effective use of existing penalties. However it is suggested that this would be more than compensated for by meeting the needs of most claimants more speedily and by no longer requiring that they carry the burden of delay created by the Department.

B. Rules used in processing claims

There are two main sources of rules used in processing claims; they are legislative and non-legislative rules. The former are set out in the Social Security Act 1964. Non-legislative rules have two sources. First, there are the departmental manuals and memoranda which contain various instructions and rules of guidance laid down by the Social Security Commission regarding the application of the rules and statutory discretions contained in the Act. Secondly, there are personal or unofficial rules which are the result of idiosyncratic interpretations of the other rules and of cases generally by individual officers. The scope of these non-legislative rules is largely determined by rule lacunae or discretions contained in the Act.

The departmental manual rules are probably the most important rules as they play the largest role in administration of claims. Yet it should be stressed that these rules are rules of guidance only. The discretions either created or left by the Act were intended to provide flexibility in the administration of the benefits. As the Ombudsman has pointed out, that departmental administrators regard these manual rules as binding is in effect "an abrogation . . . of the duty to exercise discretion in individual cases".⁶ Ultimately, "the perspective in which staff administering benefits place the internal rules will in fact determine the reasonableness of the use of such rules".⁷ Unfortunately, many of the Department's staff appear to regard the manual as their bureaucratic security blanket and the flexibility of approach seen by the Ombudsman to be a duty is in practice lost.

Access to these manuals is limited to departmental officers. It is difficult to

6. Report of the Ombudsman 1964 (Parliamentary Paper A. 6) (Wellington, 1964) 76.

7. A. F. von Tunzelmann, *op. cit.*, 288.

understand why. The rationale for confidentiality is probably based on this desire for flexibility; publication of the rules might give them some unjustified precedent status in the eyes of applicants. This in turn might result in pressure on the Department to comply with its own guidelines, which of course is contrary to the flexibility objective. However it is hard to see how this scenario could occur provided the claimant is made, like the Department's officers, to appreciate that the rules are merely rules of guidance. Reviews and appeals where an exercise of discretion was at issue would, as now, be based on the argument that the relevant discretion had been exercised against the merits of the case rather than any alleged deviation from guideline rules.

Furthermore, it is submitted that publication of the manual rules would have two advantages that do not affect flexibility. First, claimants would be in a better position to predict the success of their claims and, consequently, be able to present their claims in the best possible light. Secondly, it would make the Department publicly accountable for the validity of some of its now secret administrative practices. At present, the Department could to some extent defeat the intention and objectives of the social security legislation simply by promulgating manual rules which promote restrictive exercise of discretions. For example, expansion of the departmental definitions of 'voluntary unemployment' and 'cohabitation' could substantially alter the ratio of applications to grants.⁸

Personal rules are created by individual departmental officers and supervisors partly in response to personal interpretations of the objectives of social welfare⁹ and partly in response to rule lacunae in the manuals. In both cases the use of personal rules are unwarranted since the only situation where officers are officially called upon to exercise their personal judgment is in regard to the exercise of the discretions contained in the Social Security Act 1964. It is submitted that such discretion can only be said to have been exercised if the individual case is first considered. Any automatic application of some personal or arbitrary rule to each case amounts, in the words of the Ombudsman,¹⁰ to "an abrogation" of the duty to exercise the discretion.

Some of the guidelines to officers seemingly invite them to construct personal rules. An example of the kind of guideline which can have this effect was revealed when a guideline, Memorandum 1974/21, was publicly disclosed. Memorandum 1974/21 related to the cohabitation or de facto relationship question.¹¹ After setting out various rather obvious criteria the memorandum concluded that "the decision on whether or not cohabitation exists is in the last resort a personal judgment". Practice makes it apparent that some officers have created their own rules on this question.

Controlling these unofficial rules is plainly difficult. Better definitions of the

8. This last point perhaps explains why the rate of declined Unemployment Benefits for the administrative years ending 31 March, 1975 and 1976 remained at 27 percent despite a 143 percent increase in the number of applications. Assuming that this increase can be attributed to the worsening economic situation and that consequently more genuine applications were received by the Department, the rate of declined applications to the total number of applications ought to have decreased. That it did not seems to suggest some change of administrative practice within the Department.

9. Both as to who should be assisted and as to what the appropriate assistance ought to be.

10. Op. cit., 6.

11. As reported in *The Week*, 23 July, 1976, 1.

official rules would probably do little to help as many of the unofficial rules are simply the result of personal prejudices. Consequently it is submitted that the following two control techniques might be more appropriate.

First, a more substantial policy statement as to the broad objectives of the legislation should be inserted in the Act. Staff could then become familiar with those objectives and make their decisions consistent with them. Any alleged inconsistency between the expressed policy of the legislation and decisions in individual cases would then provide grounds for an appeal to the Social Security Commission and the Social Security Appeal Authority.

Secondly, perhaps a more important step which might be taken is in the area of staff training. That is, the discretions should be exercised by better qualified staff. Ironically, the Department already has a significant number of its staff who would be better qualified to exercise the discretions but largely does not permit them to do so. These are the social workers who must submit a client's claim with their recommendations attached for assessment by the administrative staff. Needless to say this procedure produces some conflict within the Department as the objectives of the administrative wing and the social workers is in essence contradictory: entitlement determination versus need fulfilment. Much of the social worker's expertise it seems is not utilised in determining the outcome of the claims with which they are involved. Since personal judgment is essential in administering this kind of legislation it may be argued those closest to the claimants ought to do the judging. At least their prejudices are constantly being challenged by the realities of claimants' lives. Present supervisory administrators are largely sheltered from this sobering influence.

C. After processing

Claimants declined a benefit can have their application reviewed. This avenue does not impress many declined applicants. Money for food and rent are more important to them. Reviews and appeals sound a little unreal. However, the Departmental statistics¹² on the point are revealing. In the year ended March 1976 there were 999 applications for review. Of these 713 produced a result unfavourable to the appellant. Of these 713 cases, 166 lodged appeals to the Social Security Appeal Authority of which 31 were allowed. That is, overall, 31.8 percent of applicants who applied for a review or lodged an appeal against the decision declining them a benefit succeeded with their claim. This relatively high rate of success for appellants seems to suggest the Department is exercising its various discretions inconsistently or too harshly in the first instance.

In the same administrative year, 1975-1976, the Department declined 24,437 applications of which nearly 16,000 were for the Domestic Purposes Benefit or the Unemployment Benefit,¹³ the two benefits with the most controversial discretions. It is submitted that had more of these declined applicants appealed many more would have succeeded¹⁴ in getting a benefit.

12. Report of the Department of Social Welfare for the year ended 31 March, 1976 (Wellington, 1976) 24-25.

13. *Ibid.*, 59 and Table 20 Appendix 1.

14. This is perhaps the wrong word as it is to be noted that the basic rate of benefit for many single beneficiaries is about one third of the basic gross wage, and that in order to continue receiving the social welfare most beneficiaries have to submit to varying degrees of depar riental regulation of their lives.

IV. CONCLUSION

These observations began with the proposition that the principal, and in many cases the only, response of the official social welfare system in New Zealand is money. If the points that have been made are valid it is clear that the system evolved by the Department of Social Welfare for dispensing benefit monies is one which, in many of its aspects, works against the interests of the very people it was created to assist.