

An aerial photograph of a beach. The top half of the image shows a wide, sandy beach with many small figures of people scattered across it. The bottom half shows the ocean with white, foamy waves crashing onto the shore. The water is a deep teal color.

'Stranded Superannuitants'

Experiences with MSD during New Zealand
border closures in 2020–2022

JUNE 2023



**TE ARA
AHUNGA ORA**
Retirement Commission

From the Retirement Commissioner

When borders closed again in 2021 for a lengthy period due to COVID-19, and MIQ pressure intensified, I found myself advocating for the plight of pensioners stuck offshore. I was contacted by more than 50 people caught out who faced having their NZ Super payments stopped once they had been out of the country for 26 weeks and then repayment demands issued after 30 weeks away.

We do not know how many superannuitants stranded overseas had their pensions stopped and were then asked to repay 26 weeks-worth of pension (around \$8000 per person). The Ministry for Social Development (MSD) systems do not make retrieval of this data simple.

We do know these New Zealanders faced a terrible predicament. No one could have predicted the borders would have been closed for as long as they were, and most experienced significant financial hardship and stress as they navigated their return through a crowded online MIQ system and their dealings with the MSD.

Part One of this paper describes the systems underlying international pension administration and appeals during the pandemic. MSD's administrative decision-making seemed biased towards saying no: assessment of what is a 'reasonably foreseeable' legal exemption, so that pension payments could be retained, was tightly defined despite border closure being a very rare event. It required considerable effort to change this approach to help New Zealanders experiencing difficulties, even though there was no additional cost to the taxpayer (the pensions were already being paid). By comparison, other arms of government moved quickly to roll out additional and new financial support.

While some concessions were made if superannuitants had travelled during the Trans-Tasman bubble, those who fell outside of this, or were further afield, had to grapple with an inflexible and often unsympathetic appeals process to challenge repayment demands.

I maintain that the date range for concessional treatment of 19 April 2021 to 23 July 2021 (being the timing of the Australian bubble) also remains unreasonably narrow and unsupported by the timeline of events. An inability to secure a MIQ place for more than six months was arguably not reasonably foreseeable until at least late September 2021. This was after the arrival of Delta, associated booking suspensions followed by demand on MIQ for quarantine use and the 'lottery' effect of the new booking system. Ongoing (unknowable) changes included the arrival of Omicron and further suspensions and restrictions on bookings.

The review processes experienced by the people who used them appear to be inconsistent with natural justice principles in a number of respects. Some people were not given proper opportunities to present their position. The Benefits Review Committee (BRC) appeared to adopt a pre-determined position based on MSD legal advice. In relation to the Social Security Appeal Authority, MSD changed its position but only at the eleventh hour and / or delayed providing its response for an extended period, delaying the process.

The MSD decisions appear to have been based on a legal view taken early on which adopted an unduly narrow interpretation of the relevant provision. This was then rigidly applied by MSD staff (for example, people referred to being told 'the law is the law') and the BRC creating a strong impression of predetermination amongst those we interviewed.



There were many opportunities for MSD to review the legal position adopted which would have avoided the difficulties and stress described by those we interviewed. MSD staff appeared to believe the law required the pensions to be stopped and / or repaid and that there were no other options available. While never challenged by the courts, our legal advice was that this legal position would have been vulnerable to a successful challenge. While MSD accepted this position when it announced its October 2021 policy, and in June 2022 when this appeared to be extended to countries other than Australia, an early review of legal advice could have helped MSD come to this view by a much earlier date.

It took sustained advocacy from myself and others to get the situation looked at and highlighted the inflexibility of the practices surrounding NZ Super. It is for this reason that I asked my team to further examine the settings around NZ Super and the process around it to see whether they still stand up to an increasingly global mobile population. A policy paper accompanying this report focuses specifically on the globally mobile population and the key legislative principles of 'resident and present' and 'ordinarily resident' that underpin current NZ Super settings¹.

We have also gone back to some of those stranded who got in touch with me during their ordeal and interviewed them about the experience they had navigating the system. Part Two of this paper summarises their stories and identifies some opportunities for improvement should an unusual situation like this occur again. This includes considering:

- Setting up a process for independent review and testing of legal positions in novel circumstances and/or where decisions will have significant adverse impacts, such as here. Careful consideration and review is more likely to lead to the correct answer and avoid the protracted and difficult experiences that were reported to us before the MSD position finally changed.
- At the very least, the BRC should obtain separate legal advice on any contentious issue involving statutory interpretation, rather than simply adopting the MSD legal position. This is consistent with natural justice obligations which require, among other things, that the BRC approach each review application with an open mind.
- MSD should adopt a policy of constructively engaging with alternative legal positions, such as the legal opinion commissioned by the Retirement Commissioner and provided to MSD. While MSD eventually changed its policy consistent with this legal advice, there was no discussion or acknowledgement around the issues that were raised at the time resulting in ongoing delay before a different approach was adopted. The absence of engagement also meant opportunities for transparency and learning were lost.

Thank you to those who shared their stories. Most did so because they wanted to ensure that their experiences would lead to process improvements for others navigating the pensions and benefits system.

Jane Wrightson
Retirement Commissioner

¹ For a more complete description of how NZ Super applies to people who spend time outside Aotearoa New Zealand see our [Policy Paper on NZ Super settings](#).

Introduction

Part One of this report provides a background to the rules regarding receiving NZ Super whilst overseas², the appeals process, and the border rules changes from 2020 to 2022.

Part Two provides a summary of the experiences of a selection of stranded seniors who contacted my office. They provide an illustrative example of real experiences.

KEY FINDINGS

- Border closures, plane cancellations and the MIQ virtual lobby created significant emotional strain for superannuitants who never predicted such prolonged inability to get back into their home country.
- Positive interactions with MSD were typified by people who showed empathy and kindness towards superannuitants, and use of case managers appears to have gone some way to supporting our participants, even if they could not change outcomes.
- However, 'MSD' as an organisation was perceived to be inflexible, judgemental, dismissive, out-dated/slow-moving, and lacking in 'humanity'.
- Some early conversations with the MSD call centre contributed to those perceptions due to brusque manner, incomplete advice, apparent lack of internal communication, mistakes/lost documentation, and paper-based forms.
- MSD appeared to form an unduly narrow legal approach to the statutory provisions which was then rigidly applied and difficult to shift.
- For those who travelled outside of travel-bubble times, or to places other than Australia, such perceptions were cemented during the process leading to Benefit Review Committee (BRC) reviews. The BRC hearings were considered a *fait accompli* with the process perceived as exacerbating mental strain and wasting superannuitants' time.
- Among our participants, almost no BRC decisions found for the appellant. MSD subsequently overturned many of these decisions after it changed its policy. Five of the seven participants who appealed BRC decisions to the Social Security Appeal Authority (SSAA) had the BRC decision overturned by MSD prior to SSAA consideration, but the time between the BRC hearing outcome and the automatic wiping of their debt took months. The two participants who went through the whole appeal process are still waiting for an outcome.
- There may be an opportunity for further education of some of the Senior Services International customer service team regarding the consequences of stopping a pension but not returning to NZ within the 30-week time period, and of different countries' requirements to receive assistance overseas.
- The advocacy service used by participants (BAIS) is partly funded by MSD. It would be helpful to list such support services on documentation relating to MSD decisions to cease payments.
- MSD's digital data and case management systems are clearly inadequate. There is an opportunity for MSD to simplify and modernise the process for people who are mobile and without access to printers or scanners. Interactions should be able to be completed online and in a mobile environment. A long-term goal would be a move away from paper-based to digitalised internal documentation to improve accessibility, accuracy, data analysis and reporting.

² For a more complete description of how NZ Super applies to people who spend time outside Aotearoa New Zealand see our [Policy Paper on NZ Super settings](#).

Part One: The System

BACKGROUND

In March 2020, to keep the COVID-19 virus from entering the country, New Zealand announced a complete lockdown and borders were closed to anyone who was not a citizen or permanent resident. Those who were permitted to enter the country were required to undergo 14 days of quarantine or managed self-isolation in a government-approved facility. On 9 April 2020, Managed Isolation and Quarantine (MIQ) officially started. In the early months for those who needed to travel, access to MIQ was relatively simple and booking flights and MIQ places posed few problems.

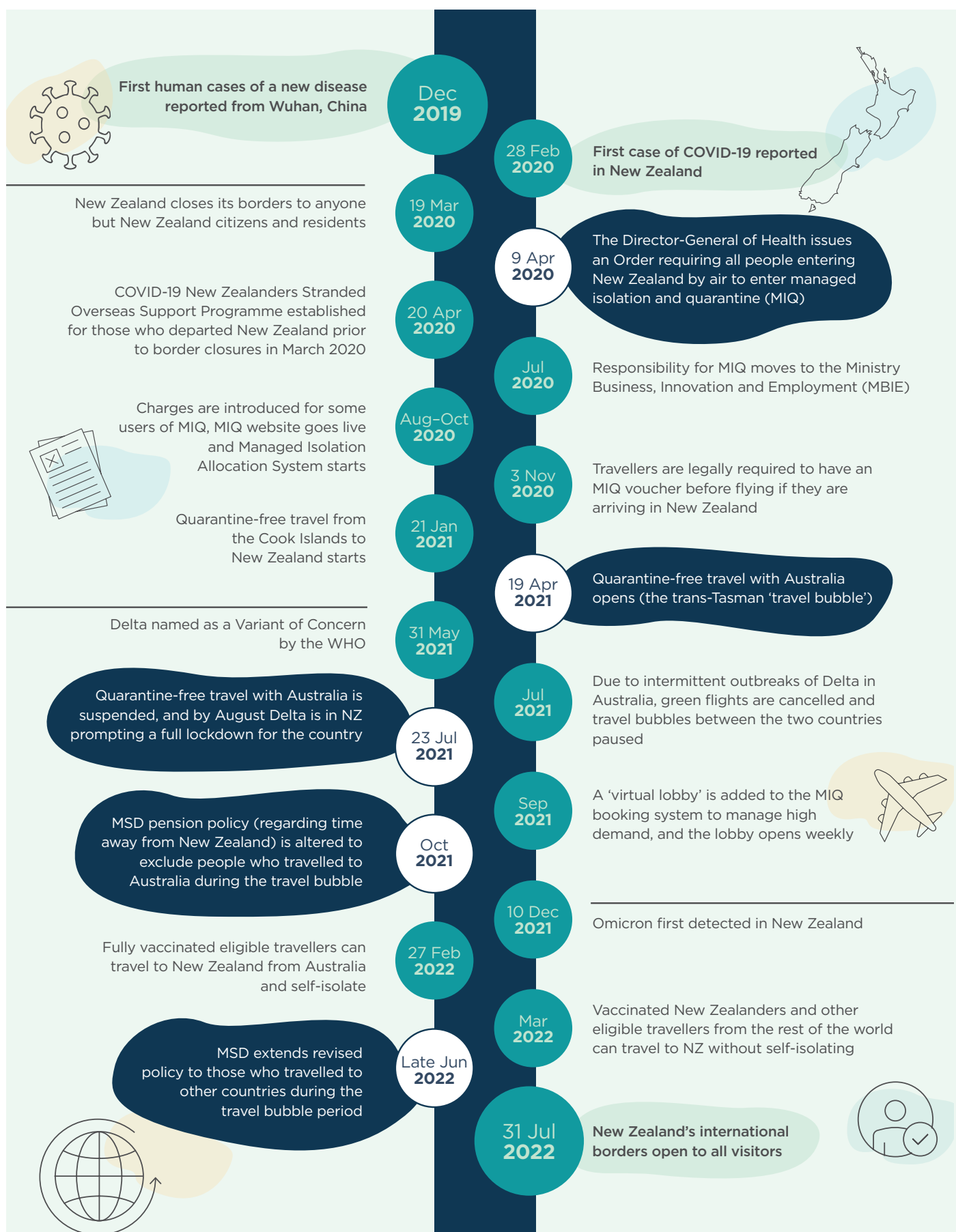
A year later, cases of COVID-19 in New Zealand and Australia had abated significantly, and by 19 April 2021, a Trans-Tasman 'bubble' between the countries started. 'Green flights' were introduced, restricted to those passengers who had been nowhere other than Australia in the last 14 days. Passengers on these flights did not need to go into MIQ.

Unfortunately, over May and June 2021, quarantine-free travel from New South Wales, Victoria and South Australia was paused intermittently due to outbreaks of the highly infectious Delta variant of COVID-19. By 23 July, the Trans-Tasman bubble was closed and all passengers arriving from Australia needed to go through MIQ. It wasn't until 27 February 2022 that quarantine-free travel for New Zealanders in Australia would recommence. New Zealand borders were fully opened by July 2022.

Booking places in MIQ proved to be a significant barrier for passengers trying to return to New Zealand. As of 11 August 2020, charges for some users of MIQ were introduced (see [MIQ Liability for MIQ charges](#)), depending on New Zealand citizenship, date of departure / arrival to New Zealand, and the length of stay in the country. A 'virtual lobby' was added to the MIQ booking system in September 2021 to manage high demand. The system was referred to by many as a 'lottery' that treated all incoming New Zealanders as having equal priority to enter the country, without allowing for individual circumstances. At the same time, flights between countries were frequently cancelled.



Figure 1: Border Closure Timeline



THE CASE FOR STRANDED SUPERANNUITANTS

New Zealand superannuitants who intend to be away for more than 26 weeks, and wish to keep receiving NZ Super, can apply for a 'portable pension' if they meet certain criteria³. For those superannuitants who plan to be overseas for 26 weeks or less, payments of NZ Super will continue while they are away, without taking any further action.

Superannuitants who expected to be away for 26 weeks or less, but are delayed unexpectedly, can apply to keep these payments going as long as certain criteria are met. The criteria are that the delay in returning 'is or was due to circumstances beyond the applicant's control that could not reasonably have been foreseen before leaving New Zealand'.

If an application is not received or criteria are not met, and the pensioner is away from New Zealand for more than 26 weeks their payments will be stopped, and after 30 weeks they may have to pay back the 26 weeks of payments they received. Repayments are not required if MSD are satisfied that the delay 'is or was due to circumstances beyond the applicant's control that could not reasonably have been foreseen before leaving New Zealand'. People who receive NZ Super as a non-qualifying spouse do not qualify for portable payments and need to reapply for NZ Super upon return to New Zealand.

Border closures

Following the initial and sudden border closure, there were a number of superannuitants who were unable to return to New Zealand within 26 weeks as they had planned. On 20 April 2020, the COVID-19 New Zealanders Stranded Overseas Support Programme was established for those who departed New Zealand prior to the borders closing in March 2020. The programme allowed payments of certain benefit and pensions to be resumed, or continued to be paid, to people stranded abroad as result of COVID-19. This was extended twice, ending at the end of August 2021.

MSD's response

For those who left after March 2020 when borders were closed, MSD was of the opinion that people should have expected travel disruptions, and therefore took a different stance. Their website stated:

"If you left New Zealand after 26 March 2020, were continuing to receive NZ Super or Veteran's Pension and exceed your 30 weeks out of New Zealand, you may be required to pay back these payments. Please note: In most cases, international lockdowns or difficulty securing a space in MIQ are not sufficient reasons for your return to New Zealand to be delayed beyond 30 weeks. If there are other circumstances preventing your return (e.g. you had a serious medical event when away) please contact us to discuss your situation."

Trans-Tasman bubble

However, from March 2020, MIQ operations expanded and flights resumed. As noted above, it became relatively simple to book flights and MIQ places within desired timeframes. Pensioners, like many New Zealanders, planned and embarked on short trips to visit family etc, often for urgent reasons, reasonably expecting to return well within a six-month period based on the information available to them.

When the Government introduced the travel bubble with Australia (19 April – 24 July 2021), MSD maintained its March 2020 position (response received by one pensioner):

³ Work and Income, 2022 [Travelling for more than 26 weeks - Work and Income](#)

The Ministry's position is that it was reasonably foreseeable that the travel bubble may close on short notice with limited time and flights available for people to return to New Zealand. The Government provided clear information when the travel bubble with Australia was put in place that it could close at any time and travellers who chose to go to Australia did so at their own risk. Examples of how this information was provided to the general public include the news media, New Zealand and Australian government websites, and airline communications and websites.

When assessing whether an overpayment should be established for the New Zealand Superannuation received for the first 26 weeks of an absence from New Zealand in the event that a client is outside New Zealand for 30 weeks or more, we look at two things:

- 1. whether the client originally made arrangements to return to New Zealand within 26 weeks, and;*
- 2. whether the client's intended return was delayed due to circumstances beyond their control that could not have been foreseen before their departure from New Zealand.*

All of this is based on New Zealand legislation as stated in our email of [date withheld] Regarding our statement that COVID-19-related issues such as travel restrictions cannot be deemed circumstances that could not have been foreseen before your departure from New Zealand, the relevant legislation is Section 22 of the New Zealand Superannuation and Retirement Income Act 2001, which states:

First 26 weeks of certain temporary absences

New Zealand superannuation that would otherwise be payable to a person (other than a person who is receiving New Zealand superannuation overseas under [section 26](#)) is payable in respect of the first 26 weeks of any absence from New Zealand if—

(a) the person's absence does not exceed 30 weeks; or

(b) the person's absence exceeds 30 weeks and the chief executive is satisfied that the absence beyond 30 weeks is due to circumstances beyond that person's control that he or she could not reasonably have foreseen before departure.

The 'chief executive' is the Ministry of Social Development. Circumstances that are beyond the control of a client and could not have been foreseen before departure from New Zealand would include (but are not limited to):

- *aircraft breakdowns*
- *industrial disputes*
- *bereavement and*
- *illness/injury to the client, their partner or other relatives*

Because it was reasonably foreseeable that COVID-19 restrictions could disrupt the travel bubble between New Zealand and Australia, the Ministry cannot consider the closure of the bubble as an unforeseeable circumstance, although it is outside our clients' control.

MSD's response to the media was even starker (email to Stuff dated 27 September 2021):

This means that where an absence beyond 30 weeks is due to circumstances that were reasonably foreseeable before departure, any payment made in the first 26 weeks becomes an overpayment.

Closure of the travel bubble with Australia, other flight limitations due to COVID and difficulty securing a spot in MIQ etc were all reasonably foreseeable before departure for anyone who left NZ within the past 30 weeks.

There are no legislative provisions under which New Zealand Super and Veteran Pension clients who left NZ, and are now stuck in Australia solely due to closure of the travel bubble, could be paid any financial assistance by MSD.

There are no exemptions available for people in this situation.

Legislation and MSD discretion

It is not known how many superannuitants stranded overseas had their pensions stopped and were then asked to repay 26 weeks-worth of pension (around \$8000 per person). MSD systems do not make retrieval of this data simple.

MSD appeared to accept many people were intending to be away for less than 26 weeks and that the circumstances preventing their return were outside their control. The nub of this issue is whether the term 'reasonably foreseeable' was correctly applied by MSD when exercising its power to stop pensions and demanding repayment and/or whether it should have exercised its discretion to take a different approach (as it eventually did).

As the borders remained closed and in response to contact from some of the 'stranded superannuitants' the Retirement Commissioner, believing that MSD did have some discretion, requested MSD in September 2021 to use that discretion. She also referred individual pensioners to the Beneficiaries Advocacy and Information Service (BAIS) for personalised support.

The concern was that MSD appeared to be applying a blanket position – that from March 2020 any pensioner travelling overseas should have reasonably foreseen they would be unable to return within 6 months. This broad view of what was 'reasonably foreseeable' extended to any future risk associated with the COVID-19 pandemic, irrespective of whether that risk was knowable at the time.

In October 2021 the policy was reviewed, with MSD for the first time acknowledging that superannuitants could not have reasonably foreseen they would be unable to return for a period greater than six months. When announcing the revised policy, MSD explicitly noted that the scale of demand for the MIQ spaces and the difficulties superannuitants were facing had only recently become apparent.

In a letter from MSD to the Retirement Commissioner dated 22 October 2021, MSD stated:

Given the changing environment and the MIQ situation that currently exists MSD now considers that NZS and VP clients who travelled to Australia during the Quarantine Free Travel period could not have reasonably foreseen they would be unable to return for a period greater than six months, even if the bubble closed. Each client's situation will be considered on a case by case basis.

At a practical level, this means we encourage superannuitants who travelled to Australia between 19 April 2021 and 24 July 2021 and who have been unable to return home to apply for portable payments under section 27 of the NZSRIA. It should be noted that even if a person's prolonged absence is considered to be out of their control and was reasonably unforeseeable, payment of standard NZS past 26 weeks is not possible under section 22 of the NZSRIA and portable payments will instead need to be made under section 27.

In order to ensure people are aware of this, MSD will proactively reach out to people who have already sought advice on their situation to let them know about the Ministry's reconsideration of people who went to Australia during the travel bubble.

For those who have not received advice on their situation, we will continue in our process to assess their circumstances. Individuals will continue to be considered on a case-by-case basis.

I encourage those potentially affected by the closure of the travel bubble to reach out to MSD International Services to discuss their particular circumstances.

Superannuitants outside the bubble

However, those who travelled outside of those times were not eligible for the extension, nor were those who had travelled to countries other than Australia (cohorts 2 and 3).

Between 1 April 2020 and 31 December 2021, a total of 5448 NZ Super clients had a suspension and/or cancellation⁴ for the reason 'Left NZ'. Of these, 2589 had their NZ Super resumed or reinstated as of end of December 2021 (including 1500 without portability), while 2859 had not (published correspondence from Bridget Saunders, MSD, March 2022)⁵.

In June 2022 after continued advocacy for the stranded pensioners, including legal advice⁶ received by the Retirement Commissioner which indicated 'the vulnerability of MSD's legal position', MSD decided that the October 2021 policy should be extended to superannuitants who travelled to other countries during the Trans-Tasman bubble period.

It also agreed that MSD would review all instances where a pensioner's payment had been stopped, or where the person had been asked to pay back the debt on an individual basis.⁷ However MSD's system did not easily permit such a review. The Retirement Commissioner discussed with MSD officials how to get consolidated data from MSD to assess the scale of the problem. MSD provided what it could but noted difficulty in collating such data from across the country. Manual collation and assessment was generally needed.

In some cases, the easiest way to review a case was for MSD to intercede once a SSAA appeal was lodged, meaning the case would not proceed to independent adjudication (see below).

REVIEW OF A DECISION

A superannuitant can challenge the decision of MSD to cease NZ Super payments and/or demand repayment by asking for a review ('review of decision')⁸. Applications need to be applied for within three months of a decision being made. Once a request for a review is received, an internal review is conducted (e.g. to check if a mistake has been made, or they missed anything), and the superannuitant is then informed by letter as to the decision within two weeks.

If the decision is not changed, MSD will send the decision to the Benefits Review Committee (BRC) and a hearing date is set. The BRC is made up of two Work and Income staff members not involved in the internal review, and a community representative appointed by MSD. The superannuitant can take part in the review with or without a support person, advocate or lawyer via in-person, video call or teleconference. The committee makes its decision and are supposed to inform the superannuitant in 'about ten days'. Few, if any, formal written decisions that provide detailed reasons are provided, according to discussions with BAIS.

Should the superannuitant be unsatisfied with the BRC decision, they may appeal to the Social Security Appeal Authority (SSAA), a tribunal administered by the Ministry of Justice. Figure 2 below outlines the process for challenging an MSD decision regarding withholding of pensions.

⁴ It is possible for NZ Super payments to be cancelled without being first suspended if that is more appropriate depending on the client's circumstances

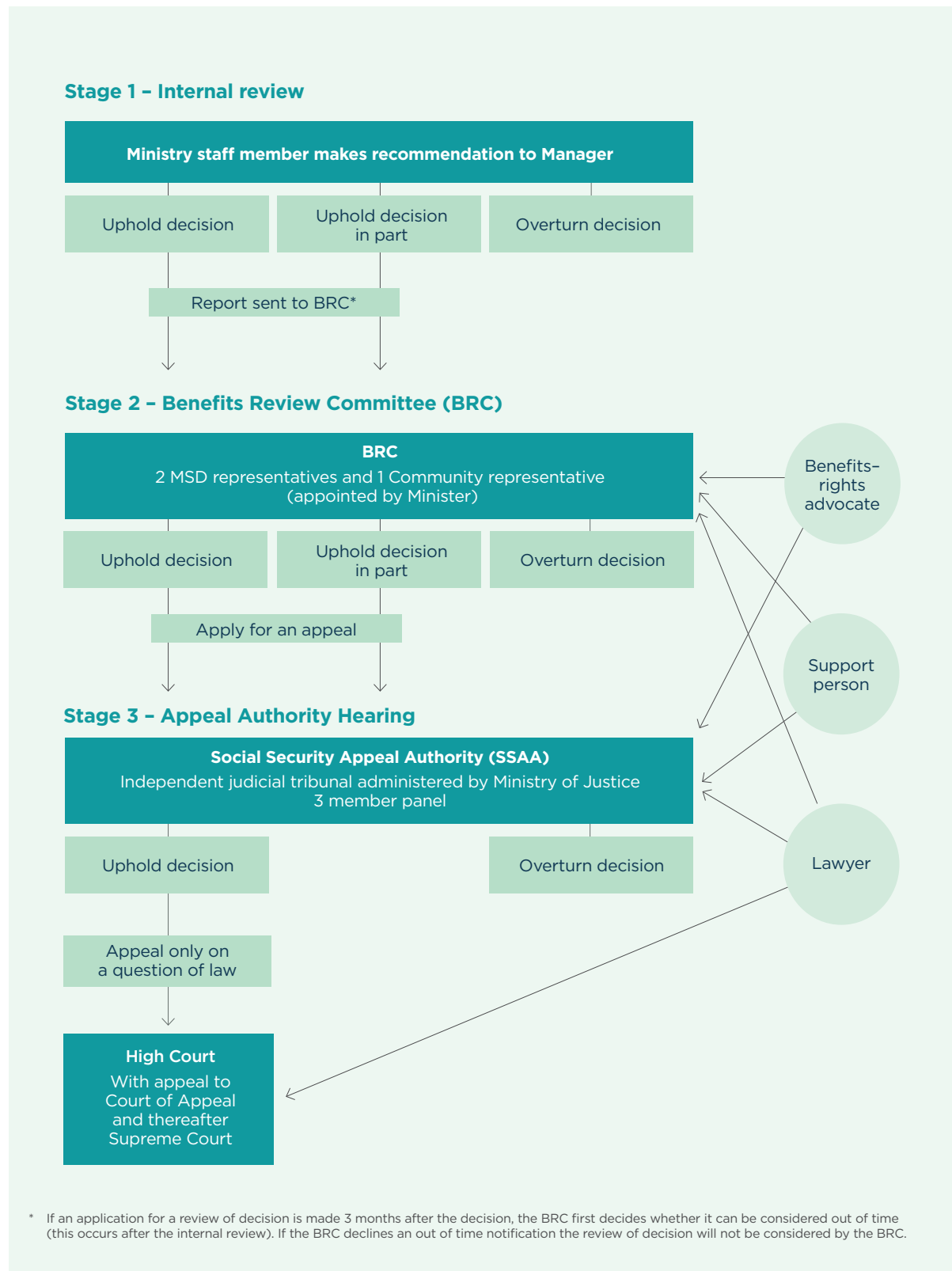
⁵ [29-3-2022-information-and-advice-on-superannuants-have-had-their-pensions-suspended-since-february-2020-due-to-being-overseas-or-unable-to-receive-an-miq-spot.pdf \(msd.govt.nz\)](#)

⁶ [Don't pay and check on your case, retirement commissioner tells stranded Superannuitants | Stuff.co.nz](#)

⁷ [MSD to Review Hundreds of Cancelled Super Payments | Newsroom](#)

⁸ [Review of a decision - Work and Income](#)

Figure 2. Process for challenging an MSD decision regarding withholding of pensions



Part Two: The People

METHODOLOGY

This section of the report explores the experiences of stranded superannuitants between 2020 and 2022 in relation to issues with their NZ Super payments, to assist in identifying issues that may have emerged over time with the NZ Super settings in the context of globally mobile population. The data takes the form of email correspondence with the Retirement Commissioner, as well as 12 case studies selected to cover three cohorts:

COHORT 1	COHORT 2	COHORT 3
Those who flew to Australia between 19 April and 23 July 2021 (the Trans-Tasman bubble)	Those who flew to Australia from March 2020 (excluding the travel bubble)	Those who flew overseas (not to Australia) after March 2020.

The Retirement Commissioner received emails from 56 people relating to concerns over pensions for people stranded overseas. Dates of receipt range from 2 May 2021 to 28 June 2022.

- Cohort 1, n=27
- Cohort 2, n=12
- Cohort 3, n= 13
- destination not specified = 4

The bulk of the emails relate to people stranded in Australia (n=39), but other countries include Thailand (n=2), and Europe/UK (n=8), Malaysia (n=1), Morocco (n=1), location withheld (n=1) or not specified (n=4).

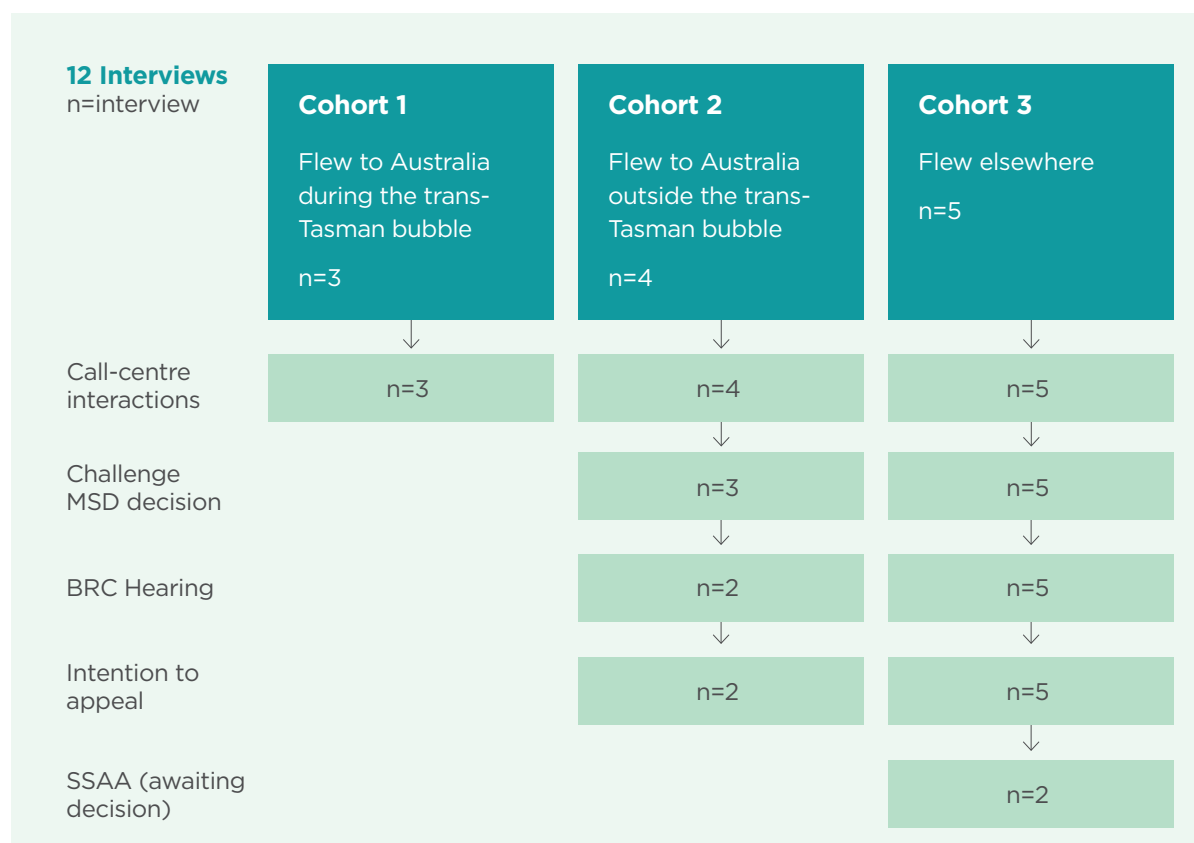
Eleven interviews and one submission document provide further insight into correspondents' experiences. Interviews were conducted from 1 to 26 May 2023.

- Cohort 1, n=3
- Cohort 2, n=4
- Cohort 3, n= 5

Figure 3 shows the stages of interaction with MSD for the interview participants.



Figure 3: Stranded superannuitants' interactions with MSD during and after border closures (Interviews)



The italicised words in the rest of this report represent direct quotes from interviews or emails.

Correspondence to the Retirement Commissioner

It is important to note that the Retirement Commissioner only heard from people who were upset about MSD's stance – the content of the rest of the report will typically reflect negative perspectives. The objective of the current research is to understand the reasons for negative sentiment, to highlight possible areas where improvements could be made in future and to identify if legislative or operational changes should be considered. Positive or neutral perspectives may of course be present but are unlikely to have resulted in correspondence with the Retirement Commissioner.

Access to data

Data retrieval systems inside MSD are neither optimal nor centralised. Requests for consolidated data generally could not be provided. We do not know how many people simply acquiesced to MSD demands rather than requesting a review with BRC. We also do not know whether MSD contacted all individuals who had their pensions affected during the COVID-19 pandemic travel restrictions, although there is indication that MSD did try to do this. Similarly, because the appeals process is still underway, we do not have information on how many people went to SSAA, or the proportion of people that were able to have their BRC decision overturned.

Nevertheless, understanding the experiences superannuitants' had with MSD is important for identifying opportunities for improvement.

STRANDED SUPERANNUITANTS' REASON FOR TRAVELLING (EMAILS)

Not all emails received by the Retirement Commissioner specified the purpose for travelling, but the most common primary reason was for family (e.g. to assist with urgent care, visit grandchildren, etc, n=12), while six people said they had left to be on holiday and two for medical reasons. There were a number of occasions where a 'holiday' was a secondary reason for travelling, however, and this caused some people to come into conflict with MSD.

The system as it is, is absolutely unfair. I have not come here for a holiday, but to care for my father, and I chose to do it now because my father could die of old age and I won't have "done my bit" to care for him. I'm also fully vaccinated. [cohort 1]

I am one of the superannuitants marooned in Queensland where I came to visit new grandson, now 2 years old, not having had the opportunity until the Australasian bubble opened. [cohort 1]

I am a New Zealand superannuitant who travelled to Australia with my wife in April of this year to support my family who had recently had a new baby. [cohort 1]

My husband and I travelled to Brisbane, Australia, in late April 2021, to support our daughter and grandson who have been going through an extremely traumatic, domestic violence based, family court case. [cohort 1]

I had been waiting months for flights to resume to Australia as I had an urgent family matter I had to attend to. I wasn't sure how long this would take but was very confident that under normal circumstances I would be back home in NZ well within 26 weeks. [cohort 2]

I came to [country withheld] because I am being forced by Immigration NZ to prove that my 5 year relationship with my man is genuine and likely to last. It is a monumental process to marry in [country withheld]. We want to marry in NZ! [cohort 3]

tone of emails

The emails people wrote to the Retirement Commissioner reveal significant stress and outrage towards MSD. This is not surprising since most people were facing the discontinuation of their pensions and (for some) a requirement that they pay back 26 weeks of NZ Super payments, which for a couple could equate to more than \$16,000.

Key themes contained in the emails following contact with MSD were:

- Dismay at not being treated with kindness and empathy
- Outrage after paying taxes all their lives and being good citizens
- Fear and anxiety about trying to find the necessary funds when many have relied on their pensions and have little saved up. Alternatively, having additional costs of running a home in one country and trying to find / pay for somewhere to live while stranded in another country
- Anger and frustration about the rigidity of MSD perspective and unwillingness to consider the circumstances of superannuitants
- Embarrassment or defensiveness over the decision to travel at a time of uncertainty
- Helplessness and panic over unforeseen consequences they had no control over

DETAILED EXPERIENCES WITH MSD (INTERVIEWS)

The rest of this report will examine in more detail the underlying reasons people were upset by their experiences with MSD, via interviews with 11 participants and one submission document.

Given the aims of the research (to learn from these experiences), participants were also asked to detail any positive aspects of the process, since these aspects are also important to learn from.

One point to note is that three people declined to be interviewed because they didn't want to revisit something that they found very distressing.

The waters have settled somewhat now, but memories of that locking out of my birth country and the emotional strain placed on us with pensions stoppage just seemed so raw and draconian due to a position we were enduring beyond our control... It still sticks badly and I don't know I will ever get past that feeling of abandonment by a government that I have been always loyal to. [cohort 2]

We were so traumatized by the events while being locked out of our country during that time that we do not wish to rehash the whole sorry ordeal. I received a phone call yesterday from someone following up on our appeal, over a year later, and I told her the same. I don't want to give MSD the pleasure of rejecting us again. [cohort 1]

THE SUPERANNUITANTS' JOURNEYS

Participants in the interviews were asked to retell their story starting from the beginning, including why they departed New Zealand at the time they did (outlined in the previous section). The following represents their perceptions of their experience.

The Trans-Tasman bubble created a sense of optimism that things were coming right. So those who left after the bubble closed (or indeed just before it opened) assumed that any further lockdowns would only be for a short period of time. Those who left during the Trans-Tasman bubble felt similarly – any border closures would only be very temporary. For those who departed to places other than Australia, the belief was that Australia would simply be the first of many countries to reopen their borders. Additionally, the ability to skip MIQ was appealing not just for financial reasons, but also because their age/health left some feeling vulnerable isolating in MIQ buildings where potentially sick people were staying.

Sure I came over in a travel bubble and knew my return might be delayed somewhat which is why I did not plan to buy a return ticket until I was ready and able to return. I thought, and I'm sure most people did, that any interruptions to the travel bubble would be for something like a couple of weeks while a problem was sorted out. We did not anticipate such prolonged shutdowns. [cohort 1]

We flew out on the 29th [July] as we had booked weeks before to visit my very sick elderly 92 year old mother in Perth. As travel at that time was suspended for just (two months) we thought we would easily get back, remember we are now looking with the advantage of hindsight. It didn't look that serious then in July. [cohort 2]

Delta and the MiQ virtual lobby

However, the arrival of the Delta variant changed the situation. Superannuitants overseas became worried when they realised they would not be able to get back to New Zealand in before their 26 week deadline. COVID-19, border closures and cancelled flights set the tone of early conversations with MSD. People were already very stressed, worried about their own and family's health, unable to help loved ones, run a business, or tend to things back home, and incredibly frustrated by MiQ issues.

It's like when our borders were closed in New Zealand, the feeling - no one knows that feeling. What parents goes through when the kids are in Australia and you can't get there kind of thing? Well, it was it was the same thing trying to get home. [cohort 2]

We applied for an emergency room allocation through category 5 under financial hardship but we were denied despite supplying endless proof of our situation and sleeping on a friend's couch in Brisbane. If we don't qualify under financial hardship who the hell does. We are now homeless and have no income sleeping on a friend's couch at age 67 through no fault of our own. [cohort 1]

I had applied twice to MiQ for emergency, even applied for French residency which was declined. I had to send all the applications to MSD to prove the situation I was in. [cohort 3 - France]

Early interactions with MSD

Lacking in empathy: As a result, interactions from the start with MSD were coloured by a strong undercurrent of apprehension, frustration, and anger. For most of our participants, their early interactions with MSD were fairly curt. They were told this is the way it is - it's the law, 'you should have known this would happen'. The tone of response was often lacking in 'humanity' and empathy, with no appreciation of the stress that people were under.

I rang the phone number specified, to ask for relief and was "told that they could do nothing and it was our fault as we went on holiday." Can you imagine the stress in waiting 2 hours every week to win one of 3000 places and constantly waiting around for the lottery, near to an airport and a COVID-19 testing centre and being ready to hop on the first available plane, all of the time? 30,000 people were in the lottery to win 350 seats from Australia in the first one. [cohort 1]

They have replied that they can't do anything, the law is quite clear and our Super will be stopped on 20 January if we are not back by then. [cohort 1]

My pension payments will stop as of this coming Nov 28, and four weeks later (ironically, Christmas day)--as I understand it--I will be liable to pay back half a year of pension payments. (I left NZ 28th of May of this year.) Being a retired person and not working, I cannot imagine this sort of debt! Basically, I feel as though I am stuck in Australia, but worse than that is the prospect of owing the NZ govt half a year of pension payments! [cohort 1]

A couple of things he said, with a 'tone of voice'. 'Mr [name withheld], you signed a statement that said you will abide by those rules'. I said 'of course', and then after asking him 3 times, I said 'this sounds diabolical to me, if I can't get back, you're saying I have to pay it back'. He said it was your choice to leave during a world pandemic. I felt like saying f\$k you. [cohort 1]*

Judgmental tone: Five participants said they left early conversations feeling as though they were stupid and being punished. A part of this was a sense of defensiveness that they had not informed MSD of their intention to travel, that they were being judged for making assumptions about their ability to return to New Zealand, or that their reason for travelling was a mere 'holiday'.

My husband makes the comment that it was like we were, I think the expression is, persona non grata, and almost, not New Zealanders. I found it very humiliating. [cohort 2]

We had originally made sure we were a long way from the six-month cut off never imagining that even without a bubble the MIQ arrangements would effectively lock us out of home. Government via MSD will further punish us by saying we must pay back payments made to us while stranded. [cohort 1].

I felt like I was being treated as a criminal. Like they'd caught me out. I explained to them why I was there, but they said you should have known before I left. I wasn't going on holiday! I can prove it, that she [his Spanish partner] was in hospital. She couldn't do a thing for herself. [cohort 3 - Spain]

For the first time leaving NZ, I didn't inform MSD. I usually do maybe 95% of the time. I've never been away for more than 6 months - I have a business to run [back in NZ]. And I'm a stickler for rules. [cohort 2]

They kept asking me why I didn't alert MSD before leaving, but that isn't a requirement! And they kept insisting I was there on holiday. We aren't prisoners in NZ! [Cohort 3 - Thailand]

Mixed experiences: However, some interview participants experienced a mixed bag in terms of call centre tone, depending on which time they called. Those with case managers tended to feel the interactions were more empathetic.

I found the first man very, very obstructive. He said to us we had to go and do our own research, so I'm sitting in a caravan park with a phone that's about to go flat. But there was that one lady [the last person she spoke to] who was just, she still had her job to do, she still didn't tell me anything better, but at least she was pleasant. And she was a little bit sympathetic and understanding. [cohort 2]

There was one guy who became my case manager. Everyday I was writing emails. To their credit he did the best he could. I mean, there's no use railing against someone administering the law. It was the law that was the issue. MSD people were very sympathetic, it was the organisational / legal position that was lacking humanity. [cohort 3 - France]

[MSD name] was outstanding, [MSD name] (I think is his name) very good. They were not aggressive and confrontational, they talked about their requirements as opposed to demanding, and listened to us. [cohort 1]

Then gave me [MSD name] in around Nov. She kept saying I understand it, I get it. It was lovely talking to someone who was trying to help. [cohort 2]

I can't say anything positive about the experience, although the email I sent asking questions back in August was to the Senior Services International division at MSD, they seemed to answer very quickly. I presume the info they get they put into the MSD. They were an area that was a little bit more comforting, at least prepared to chat on the phone and give you some information. [cohort 1]

Unhelpful or inaccurate advice: Early advice was not helpful or accurate for a number of interview participants and several were told they could pause their pension with no penalty.

I finally called up international services for WINZ, and I think the first question I asked was 'I may not be able to get back in time. What sort of song and dance is it to reapply for the pension?' The very nice woman said 'it's not really a problem. When you get back and are in MIQ, contact us and tell us you are there, and someone will get back to you to start the paperwork going'. So I thought ok, no real dramas. But what I didn't know is that I would subsequently be told I had to pay it back [my pension]. [cohort 1]

I did have long conversations with the pension people. I was entitled to a UK GBP90 a week pension which was paid to the NZ Gov. Some NZ pension staff said I would get that in the UK, others said I would get nothing, and others said they didn't know. Someone else got me to apply for a 'mobile' pension. After spending lots of time applying it was rejected as 'not for the UK'. [cohort 3 - UK]

I have called WINZ and advised them our return flights have again been cancelled and what will happen with my pension? They would not confirm either way and would advise me by email. [cohort 2]

PM's Office sympathized and passed letter to Minister Sepuloni from whom I got a generic reply stating that I should contact Centre Link Australia. Needless to say, Centrelink is uninterested saying it's the NZ Government's responsibility. [cohort 1]

[MSD name] suggested I apply for a portable pension, but I can't get portable pension. So, I asked Centrelink, and they laughed at me. They said they can't help me. Why would they pay me a pension when I'm not on their system? [cohort 2]

So I rang Wellington - they said if I cancel my pension before 26 weeks was up, then I wouldn't be penalised. So I did that, which was obviously the wrong thing to do. [cohort 2]

Inefficient processes: Some early engagement didn't appear to address information that had been supplied by the pensioner or got lost, and there was a sense that documentation was not up-to-date or shared with other relevant people. For some this resulted in delays in having their pension reinstated on return.

They told me I was outside the number of days of my appeal...I had an email with the date I submitted it, and they still said I wasn't in time. [cohort 3 - Spain]

They weren't reading our emails; all the emails were repetitive. I would say look, this is what's happened and there was someone different all the time. Then in the end I just tried to collate a big story, a big journey and I just attached it to the e-mail. No one read that, they were only interested in that last e-mail. So, we just felt like we're going round and round in circles. [cohort 2]

There were always different people answering me, I didn't know where I was with this. I had to say 'the other person said this...' [cohort 3 - Spain]

We had to apply when we got back, but nothing happened. So we rang them, they said it would be reinstated right away. But it didn't. So we had to drive into Tauranga and they said it was going to be reinstated but it wasn't. Waited four months. Whoever was in charge had months to get this straight. They can do this with your heat allowance why not the pension. Someone in international services had my file on their desk! After a couple of calls someone said, oh it's on 'someone's desk'. Their administration needs looking at. And the way they monitor the case. [cohort 1]

I received [my pension, on return], but he [her husband] didn't. We had a letter from them asking if our relationship status had changed! So I replied to their form, it was in paper form again, not by e-mail. So they rang me (or maybe I rang them) and we got told that John was still in Australia. They insist that he has not returned and I'm saying to them he's here right here beside me. He speaks so they know he's here... 'Ohh well there's no proof of him coming in across the border'. So they were able to tell us how many days we'd been out of the country for like 30 odd years, they obviously had the dates of our travel historically, and now he has to speak to them so they know he's here. And they say 'well there's no proof of him coming in across the border'...' [cohort 2]

CHALLENGING MSD DECISIONS

Interactions with MSD for cohort 1 participants (those who travelled to Australia during the bubble) were typically restricted to the early call-centre interactions because from October 2021 onwards, policy excluded them from the 26 week deadline. However, cohort 2 and 3 participants (n=8) continued their interactions with MSD to challenge decisions. Due to the way participants felt they had been treated in the initial stage, participants went into the challenge process feeling angry and defensive.

I went on to the MSD website and looked at what opportunities I had to get MSD to reconsider their decision. I'm very well educated, I'm not your typical senior citizen. I'm still working, I'm active professionally and personally, so the process I had to go through was very easy. If it was my sister, she wouldn't get past go. I can say categorically it would not be easy for them. It was the form filling – four pages of forms to fill out, you realise you are going to be judged on the information you provide. [cohort 3 – location withheld]

They wouldn't restart my pension once I returned in April. They told me 'we won't start your pension until the BRC decision is released'. Of course, I complained and they decided to restart it but they reduced it by \$20 a fortnight. I'm not sure why. [cohort 3]

Arduous process: Most participants made their request to challenge MSD's decision while still overseas. Challengers were required to print and complete a paper document to be posted back to MSD or scanned, which three superannuitants felt was an arduous process.

I was amazed you had to print out docs in hard copy, scan and send them back! Actually write on a document. People that were stuck, they wouldn't have access to computers and be able to scan! We were treated as being old, but this felt like a step back in time. [cohort 2]

We don't have easy internet access so we tried to do the forms on phone but it was a pdf form and it was really tricky. Then we tried to contact them because they wanted proof we were trying to come back. We sent them an email with a copy of our airline bookings. MSD couldn't accept attachments because of spam. So we gave up. [cohort 1]

Unfair application of the extension: New Zealanders stranded in countries other than Australia, or those who travelled to Australia outside bubble times, were treated differently to those who went to Australia during the bubble.

To be left out in the cold when you are looking after superannuitants stranded in Australia due to "the bubble" is NOT GOOD ENOUGH. It's not the bubble that has stranded superannuitants in Australia and it's NOT the bubble that has stranded superannuitants in other countries it is the MIQ SYSTEM NOT BEING FIT FOR PURPOSE [cohort 2]

I believe the standards for NZS have not been applied consistently and equally. I note NZ superannuitants stuck in Australia in similar circumstances have been granted their NZS. Meanwhile ours was arbitrarily cut off after 22 weeks, ... and are being shorted on our NZS entitlement. [cohort 3 – Thailand]

Irrelevant and inaccurate: Two participants noted that MSD made reference to travel advisories that did not exist when the decision to depart New Zealand was made.

Communication was non-existent for 3 months and they produced a voluminous paper that was riddled with errors. Full of wrong facts, and they referred to the most recent travel advisory that didn't exist when we left the country. [cohort 3 – Thailand]

Lack of formality: One participant felt the document required weird information and did not look like an official document.

It wasn't an official form. They wanted me to list all the travel I've done since I turned 65, where I lived, if I was overseas who pays the rates, who I was with etc. A 2-page form but nothing about NZ govt on it. Did I own my house, was I renting it out. What they wanted to know is if I was living in Spain permanently. Which I'm not. I sent the form to [BAIS] and she hadn't seen it before. She thought the form is outrageous and she'd never seen it before. No reference numbers or NZ Govt logo – someone just sat down and put a whole bunch of questions together! [cohort 3]

BENEFIT REVIEW COMMITTEE HEARINGS

On 4 November 2022 (Newsroom), it was reported⁹ that since January 2022, 144 cases had been reviewed, with 32 overturned prior to a BRC hearing, and 45 withdrawn. The remaining 67 went through a BRC hearing, of which 93% (62 cases) upheld the MSD decision, four were partially upheld, and only one decision overturned the MSD ruling. Months after borders opened to New Zealanders, 151 reviews had still not been heard by the committee.

Eight of our participants (Figure 3) initiated a challenge of MSD's decision, of which five were from cohort 3 (flew to somewhere other than Australia), and three were in cohort 2 (flew to Australia outside the bubble times). Overall, the hearing process was highly unsatisfactory to the seven participants that went through the entire review process (one person challenged the decision but had it overturned).

Among those who challenged MSD's decision, several participants felt the hearings were a 'box ticking exercise', since they had little opportunity for discussion. In fact, one person was explicitly told there wouldn't be an opportunity for discussion. In one instance, one of the nominated MSD members couldn't attend and a stand-in attended via video conference. However, there were technological issues and that person had problems hearing the conversation.

I also presented something, I was given every opportunity. But everybody was an employee of the MSD, except for the 'chairperson'. It was very clear ...that they were only interested in hearing [information] confirming their decision. I don't think they heard my information at all, they had just made up their minds. They gave me all the time I wanted to present my case. I just felt it didn't matter what I said, they'd come up with the same decision. [cohort 3 – location withheld]

I said 'so if I appeal the decision, what are my chances of, you know, having it overturned?' He said. 'None'. [cohort 2]

My case went to a Review Panel (a teleconference call) where due process was not observed by the Community Representative. MSD has issued an apology to me after their investigation and deemed her behaviour totally inappropriate. My appeal was however still refused yet the feeling of injustice with this whole situation still lingers in me. [cohort 3 – France]

⁹ [Pensioners Fight To Have Debt Wiped | Newsroom](#)

The young girl in the in the mediation room turned round and said 'well, why didn't you come home then? If he wasn't well?' I just said to her, 'we have got a right to go. We've done nothing wrong. We've got a right to go out of the country.' [cohort 2]

They didn't. They hadn't read it, and so it was really disappointing to attend that meeting to hear that before we even started, we were on the back foot, you know, and these people treated us like criminals. And they did say to us that 'You're not going to get any further this'. I don't know the exact words, but they see this is just a paper exercise. [cohort 2]

The positive, I felt, was that there was a community member. It implied it could be a creditable process. My experience was the opposite... While I found the process was easy, and was grateful for the chance to appeal, I came away thinking that was a waste of time. Due process wasn't served at all. I didn't want to go to the next appeal process. It took me two months, what was the point? My sense of injustice! The community person was very 'laws the law', but the MSD case manager was very sympathetic...I didn't feel they had any other agenda but to deny. I'd love to know how many people won through the BRC. [cohort 3 - France]

After the first (internal) appeal, when they came back from that review, MSD said in their report they came back and said they were now claiming back the 26 weeks. I've looked at the legal right of them to do that, if you lodge an appeal you can't come back with something even worse! [cohort 3 - location withheld]

SOCIAL SECURITY APPEAL AUTHORITY

Five of the interview participants went to appeal but didn't get to a hearing. The BRC decision against them was overturned by MSD, and their pension reinstated, before the SSAA could hear the case.

However, a lot of effort, time (and for some, money) went into preparing for the appeal. At the time of writing, the two participants who secured a SSAA hearing are still waiting for a decision, one of whom filed an appeal in March 2022 (both cohort 3). They want the money withheld from them returned and their debt cleared.

The outcomes of lodging an appeal were typically positive in the sense that the BRC rulings were overturned, pensions restarted, and debt was wiped. But the process issues are concerning. Requiring people to prepare for an unfamiliar legal process when (unknown to them) an overturn prior to hearing was likely, the delay in getting an outcome, and the fact BRC decisions were overturned very close to the SSAA hearing date, and after an enormous amount of 'unnecessary' effort and time, took its toll.

One of the points I want to make is the huge delay in the SSAA process. It took over 18 months for MSD to submit a report to the appeal authority. And I've had no outcome yet. It was held in late March and I still haven't heard back, and I've not been given any indication of when I will. [cohort 3 - location withheld]

So that appeal was going to be a hearing on 28th Sept, I had all my notes in front of me, MSD had sent me 158 pages of correspondence, all printed out. [MSD name] was the international case manager, she had all the correspondence I had sent to her and other ministers. She sent me pages of the law and regulations for Super, but none of it seemed relevant to a pandemic. On 27th Sept, a day before my hearing - MSD said if you withdraw we would back off. Was it just to get me out of the system? So I didn't back down. Within a week, my debt was gone - \$10k was wiped. My bank account had another \$10k, but I had to pay tax on the \$10k. So it ended up about \$8k, it all balanced out. [cohort 2]

Appeal was scheduled for a date, but before that someone rang me up and said it was going to be paid and I just needed to fill out the detail. And then I got paid! And I actually got an apology letter that the decision hadn't been made before! [cohort 3 - France]

SUMMARY

The stress of navigating the new MIQ ‘virtual lobby’ process compounded the angst and anger triggered by MSD’s initial communications regarding pension cessation.

- Most participants were aware that there might be delays in trying to get back into New Zealand, and some acknowledged they might need to use MIQ if there were border closures.
- All of our participants were aware of the 26 week limit for being out of the country, and none of them believed they would be unable to get into New Zealand’s borders within that time.
- No-one predicted the inability to secure MIQ places, and the continual cancellation of flights over an extended period of time.

There is the belief that MSD did not communicate in a timely way with MIQ to understand what impact the ‘virtual lobby’ system would have on the income of people being prevented from returning within the required timeframe.

- A minority accepted they would have to stop receiving NZ Super while overseas and were able to support themselves during that time.
- However, other participants relied almost entirely on their pensions, and this income was essential for paying for food and accommodation while trapped overseas. At least two of our participants were left sleeping in friends’ garages or sofas.
- The Senior Services International team is likely to have encountered very stressed superannuitants from late July/early August 2021 onwards, and it is unclear from our interviews how much of superannuitants’ plights were being communicated up to senior officials (and understood).

Apart from the financial burden carried by superannuitants who had their pensions stopped, the mental toll the process took on participants is very apparent, particularly relating to the concept of having a debt to the government.

- The time it took participants to get to the Social Securities Appeal Authority was significant, and participants carried the fear of debt for a long time before resolution (generally by MSD intervening before a hearing). The two remaining participants who actually had their case heard by the SSAA are still waiting for the judgment.
- Use of case managers appears to have gone some way to supporting superannuitants trying to navigate the appeals process, even if they were not able to change the outcome.
- There may be an opportunity for further education of some of the Senior Services International customer service team regarding the consequences of stopping a pension but not returning to New Zealand within the 30 week time period, and of different countries’ requirements to receive assistance overseas (e.g. Centrelink requires beneficiaries to be aged 66+ and intend to live in Australia).
- The advocacy service used by participants (BAIS) is partly funded by MSD. It would be helpful to list such support services on documentation relating to MSD decisions to cease payments.

The reliance on paper documentation appears to have complicated the appeals process and resulted in repetition, errors, and delays.

- There is an opportunity for MSD to simplify and modernise the process for people who are mobile and without access to printers or scanners. Ideally, this could be completed online, and possibly via the use of mobile phones.
- A long-term goal would be a move away from paper-based to digitalised internal documentation to improve accessibility and accuracy.

FINAL WORDS

Maybe the memo didn't come through – you're going to get a lot of people ringing you and you needed to give them the full story ... I didn't get the full story which seems typical of a large organisation. I was never informed particularly well, and it took a long time to give me a good result. It was like they had a bunch of trainees – out of touch with what might be happening with us superannuitants who are going to be told to pay back a whole bunch of financials. All they can do is go by government policy, I get this – so it required MSD to look at this with a critical mind and say hey is it ok that we are asking people to do this if they can't get back? [cohort 1]

I just think they were probably busy. They were probably understaffed, you know, I mean, all these people have gone through COVID-19 themselves. [cohort 2]

MIQ and MSD needed to work together. But MSD certainly needed to be aware of this [issue with MIQ] much earlier. They were far too slow to respond. [cohort 2 – France]

My ideal hearing? It shouldn't just be an opportunity to speak, I wanted to have a constructive discussion, looking for common ground, a way to move forward, any compromise. A way to solve the problem. [cohort 3 – withheld]

All I wanted was to be spoken to nicely and professionally. They were all abrupt in their emails. And the whole process of appealing seemed to be so complicated. There should have been a simple system. And they should have told me about the BAIS. [cohort 3 – Spain]

