



23 JAN 2019

Dear [REDACTED]

On 3 October 2018, you emailed the Ministry requesting, under the Official Information Act 1982, the following information:

- 1. In the past five years (Since 3 October 2013) how much money has the Ministry of Social Development spent on settling employment and personal grievance issues? This should include but not be limited to, any out of court settlements regarding complaints made by the Ministry of Social Development staff (Current or former).*
- 2. In the past five years (Since 3 October 2013) how many employees in total has the Ministry of Social Development reached settlements with? This should include, but not be limited to any out of court settlements regarding complaints made by The Ministry of Social Development staff (Current or former).*
- 3. In the past five years (Since 3 October 2013) how many complaints has the Ministry of Social Development received of discrimination, non-sexual harassment, and bullying made by staff (current or former). Please breakdown by year.*
- 4. In the past five years (Since 3 October 2013) how many complaints have the Ministry of Social Development received of sexual harassment, or complaints of a sexual nature. Please breakdown by year.*

The Ministry employs just under 7,000 staff and takes its obligations as an employer to provide a safe and healthy work environment very seriously. As such, the Ministry does not tolerate any form of workplace bullying or harassment. All Ministry staff, including managers, are required to read and sign the Code of Conduct, which sets out the Ministry's expectations of all staff to act in a way that is professional and respectful.

Workplace bullying is defined by the Ministry as unwanted and unprovoked behaviour that is offensive, intimidating, or humiliating and is repeated, or significant enough as a single incident and which has a detrimental effect upon a person's dignity, safety, or sense of wellbeing. This could include:

- repeated criticism in front of colleagues
- the use of offensive language
- isolating an employee
- spreading malicious rumours, or insulting an employee by word or behaviour.

This list is not exhaustive. The Ministry recognises that workplace bullying can take many forms and does not tolerate it in any situation.

Settlement payments are made for a range of circumstances such as employment disputes and breaches of the Privacy Act, where the claimant could take the case to the Human Rights Tribunal who could in turn, award damages against the Ministry.

The 2016/2017 financial year had significant changes for the Ministry. On 1 April 2017, there were changes to the structure of the Ministry and the establishment of Oranga Tamariki - Ministry for Children. Please note, all costs and figures include payments to Child, Youth and Family staff up until 30 March 2017.

Table One enclosed shows the number of current and former employees that have received a settlement payment, and the total amount of these payments between 2013/14 and 2017/18. Please note, not all settlements include a payment.

Sexual harassment guidelines are included in the Ministry's Workplace Harassment and Bullying policy. Sexual harassment is defined by the Ministry as unwanted and unwarranted behaviour of a sexual nature, including the use of language (whether written or spoken), visual material, or physical behaviour that, directly or indirectly:

- makes a request of a sexual nature to an employee which contains an implied or overt promise of preferential treatment or a threat of detrimental treatment
- is unwelcome or offensive to an employee
- has, either by its nature or through repetition, a detrimental effect on an employee.

When the Ministry is made aware of a situation that breaches the Code of Conduct, a formal investigation of the complaint raised will be initiated, or the Ministry will work with any external agencies investigating this, such as the Police. During the investigation process, the Ministry encourages complainants to bring support people, such as family or whānau or a Union representative, to any meetings.

When the Ministry receives a complaint of this nature, the complainant is advised that they are entitled to:

- seek independent legal advice if they believe that they have been the victim of a criminal offence. Where an assault or serious intimidation is alleged, it may be appropriate to report the alleged incident or incidents to the Police
- lodge a complaint with the Human Rights Commission under the Human Rights Act 1993, or raise a personal grievance under the Employment Relations Act 2000 within 90 days of the incident occurring.

Examples of sexual harassment complaints that will be investigated if a complaint is made include:

- offensive gestures or verbal comments
- unwanted and deliberate physical contact
- offensive electronic messages
- sexual propositions or requests for dates, especially after prior refusal.

The Ministry acknowledges that sexual harassment may take many forms, and the above list is not exhaustive. All complaints of bullying or harassment received by the Ministry are treated seriously and confidentially, and are followed by an investigation to determine the appropriate course of action, including possible disciplinary action.

Table Two enclosed shows the number of bullying or sexual harassment complaints received by current and former employees between 2013/14 and 2017/18. When compiling the data requested, a very broad interpretation was taken of complaints based on the terms used by the complainant however, when investigated, a finding of sexual harassment or bullying may not be found.

The Ministry's Code of Conduct sets out the responsibilities of staff to respect the rights of other people. This includes being respectful of others' dignity and work and being fair and unbiased, regardless of the clients the Ministry is dealing with. The Ministry does not specifically report on acts of discrimination. As such, your request for information relating to complaints of discrimination is refused under section 18(e) of the Official Information Act as this information does not exist.

The Ministry can however report on the number of complaints received where the term 'discrimination' is included in the complainant's text. Table Three shows the number of complaints received by current and former employees between 2013/14 and 2017/18, where the term "discrimination" is included in the complainants text.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public shortly. The Ministry will do this by publishing this letter on the Ministry of Social Development's website. Your personal details will be deleted and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response regarding sexual harassment, bullying and settlement claims at the Ministry, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely



PP Stephen Crombie
Deputy Chief Executive, Corporate Solutions

Table One: Number of current and former employees that have received a settlement payment, and the total amount of these payments between 2013/14 and 2017/18.

Financial year	Number of staff	Total settlement costs
2013/2014	4	\$19,000
2014/2015	2	\$60,000
2015/2016	5	\$90,278
2016/2017	0	\$0
2017/2018	1	\$29,700

Table Two: Number of bullying or sexual harassment complaints received by current and former employees between 2013/14 and 2017/18.

Financial year	Number of complaints
2013/2014	67
2014/2015	56
2015/2016	76
2016/2017	60
2017/2018	35

Table Three: Number of complaints received by current and former employees between 2013/14 and 2017/18, where the term "discrimination" is included in the complainants text.

Financial year	Number of complaints
2013/2014	0
2014/2015	2
2015/2016	0
2016/2017	3
2017/2018	1

Notes for all tables:

- Table One: These costs differ from the Select Committee responses as they include all settlements, not just those made following an Employment Relations Authority decision or Employment Court decision.
- Table One: These costs are more extensive than those outlined in section 123 of the Employment Relations Act (Remedies) section 123 payments. For example, they also include payments towards legal costs.
- All costs and figures include payments to Child, Youth and Family staff up until 30 March 2017.
- Tables Two and Three: More than one complaint may be made about an incident.