



12 FEB 2020

Tēnā koe [REDACTED]

On 12 November 2019, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982, the following information:

A mix of statistics and general comment relating to benefit fraud convictions in Manawatu (This is made up from hearings in the Palmerston North, Levin, Marton and Dannevirke District Courts):

- *Number of successful benefit fraud prosecutions in Manawatu for each of the last five years?*
- *How many successful prosecutions were there in 2019? Can this be broken down into how many were in each of the above courts.*
- *How many prosecutions, both in Manawatu and nationwide, were unsuccessful in 2019?*
- *In Manawatu, how much did the Government spend on benefit fraud prosecutions? How about nationwide?*

General comment:

- *I assume most people on the benefit do the right thing, but what's the Ministry's approach with those who don't?*
- *How many people are employed to investigate benefit fraud? What does their job entail? How do they detect benefit fraud?*

The Ministry works hard to protect the integrity of the welfare system to ensure it remains fair for all New Zealanders, which can include prosecution where clear evidence of fraud exists. Where appropriate, the Ministry works with other government agencies to identify and reduce incidents of fraud and investigate cases which arise through allegations from members of the public.

For the sake of clarity, I will address your questions in turn.

- *Number of successful benefit fraud prosecutions in Manawatu for each of the last five years?*
- *How many successful prosecutions were there in 2019? Can this be broken down into how many were in each of the above courts.*

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- *How many prosecutions, both in Manawatu and nationwide, were unsuccessful in 2019?*

The Ministry uses the Solicitor-General's Prosecution Guidelines as the main reference point when considering a prosecution. As a government agency, any criminal prosecution action brought by the Ministry must be in accordance with the 'Test for Prosecution' set out in the Guidelines. You can access the guidelines on the Crown Law website here: www.crownlaw.govt.nz/publications/prosecution-guidelines/.

There are two factors considered for the 'Test for Prosecution'. Firstly, a case must meet the requirements of the 'Evidential Test', where the evidence gathered must be sufficient to provide a realistic prospect of gaining a conviction. If the case meets the 'Evidential Test' requirements, the Ministry also applies the 'Public Interest Test' to determine if it is in the public interest to prosecute.

While it is appropriate to prosecute some people due to the serious nature of their offending, the Ministry is conscious that prosecution can negatively impact clients and families who are already in a vulnerable and difficult situation. It is important that the Ministry makes considered and sound decisions on which cases should be prosecuted. This includes considering the individual's situation and the cost to the tax payer before deciding to prosecute.

Where appropriate, in cases where a decision is made not to prosecute, an overpayment can be established. The Ministry will then work with the client to recover the debt at a rate they can afford.

The Ministry's Fraud Prosecution Review Panel was established in May 2018 and makes the final decision regarding whether cases will involve prosecution. The panel's approach to making prosecution decisions strengthens the process by making sure that responsibility for that decision is broadly shared. In addition, cases considered for prosecution by the panel are assessed blindly, without ethnicity being declared to the panel. By having wide representation from around the Ministry, including Māori representation, the Panel approach helps to provide a broader view of "public interest".

Please find enclosed **Table One** showing the number of benefit fraud convictions in Manawatu and Nationally for the 2014/2015 to 2018/2019 financial years ending 30 June, broken down by District Court.

You will note that the number of clients prosecuted for fraud has decreased over the time period reported. As improved data matching is picking up more cases of undeclared income earlier, fewer cases require investigation and prosecution. The Ministry is now focused on prosecuting only the more serious cases of fraud that, for example, occurred over longer periods and/or involved bigger overpayments.

In order to protect client privacy, please note that values under six have been suppressed and are represented by an 'S'. The Ministry is unable to provide you with the exact number as releasing this information is likely to risk identifying the individuals concerned. As such, the information is withheld under section 9(2)(a) of the Act. The need to protect the privacy of these individuals outweighs the public interest in this information.

- *In Manawatu, how much did the Government spend on benefit fraud prosecutions? How about nationwide?*

Multiple government agencies are involved in the benefit fraud prosecution process, and therefore I am unable to provide you with this information. This part of your request is refused under section 18(g) of the Official Information Act as the information you have requested is not held by the Ministry and I have no grounds to believe that the information is held in its entirety by another department or Minister of the Crown or organisation.

- *I assume most people on the benefit do the right thing, but what's the ministry's approach with those who don't?*
- *How many people are employed to investigate benefit fraud? What does their job entail? How do they detect benefit fraud?*

It is vital that the public has trust and confidence in the Ministry to ensure people receive their correct entitlement and do not take advantage of the welfare system. The Ministry actively looks to prevent, detect and reduce incidences of benefit fraud.

The Ministry has a dedicated team of around 100 specialist fraud investigators located throughout the country, and an Intelligence Unit that identifies emerging fraud risks and trends. The Ministry works with other government agencies and Intelligence Units to identify and reduce fraud and investigate cases which arise through allegations from members of the public.

Potential fraud may be identified from public allegations, information sharing with other agencies, staff referrals or from our Intelligence Unit. When a case is received, the information is assessed based on the level of evidence available to substantiate the level of fraud and risk posed. Based on this assessment some cases will not be followed up, for example, because there is insufficient information to warrant further action.

The Ministry is increasing its focus on fraud prevention and early intervention activities. For example, fraud investigators are working more closely with front line staff to assist them to have good conversations with clients. This ensures the client understands their obligations to tell Work and Income early about any changing circumstances as this could affect their benefit entitlement. We want to make it easier for clients to tell us about changes and also harder for clients to get it wrong and maybe end up in debt to us.

This increasing focus on fraud prevention is illustrated by the Ministry's three tier approach implemented across our fraud teams.

The three-tier approach helps the Ministry better manage fraud activity. All allegations of potential fraud or abuse of benefit payments are responded to in a manner proportionate to the nature of the information received and the potential seriousness of offending.

Tier One - Early Intervention – Making it easier for clients to do the right thing

Tier One is about ensuring clients know of the information the Ministry has received about them and about their entitlements and obligations and letting them make a decision about their entitlement to a benefit payment. This involves a letter and/or phone conversation with the client. The Ministry's aim is to identify the correct entitlement going forward, rather than establishing an overpayment.

Tier Two - Facilitation – Providing clients with an opportunity to do the right thing

Tier Two is about working with the client to help them do the right thing. It's about having a more in-depth, face to face conversation with a client about their situation, entitlements and obligations so the client can self-assess whether they are receiving their correct entitlements. Again, the Ministry's aim is to identify the correct entitlement going forward, rather than establishing an overpayment.

Tier Three - Investigation – Protecting the integrity of the benefit system

Tier Three is about undertaking an investigation into a client's entitlement where the Ministry believes they may be committing fraud. The outcome in these cases could be an overpayment, the imposition of a penalty, or in the most severe cases, prosecution.

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, 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



George Van Ooyen
Group General Manager Client Service Support

Table One: Number of benefit fraud convictions in Manawatu and Nationally for the 2014/2015 to 2018/2019 financial years ending 30 June, broken down by District Court

District Court	Completed prosecutions					Successful prosecutions				
	Financial year					Financial year				
	2014/15	2015/16	2016/17	2017/18	2018/19	2014/15	2015/16	2016/17	2017/18	2018/19
Dannevirke District Court	S	S	S	S	0	S	0	S	S	0
Levin District Court	S	S	12	S	S	S	16	12	S	S
Marton District Court	0	0	S	0	S	0	0	S	0	S
Palmerston North District Court	41	40	25	8	9	36	39	25	8	8
Total Manawatu	52	57	44	13	14	47	55	43	13	13
Total Nationally	958	619	453	291	127	927	598	436	277	121

Notes:

- In certain circumstances low numbers may potentially lead to individuals being identified. Due to these privacy concerns, numbers for some categories of clients have been suppressed or aggregated. Secondary suppression rules have also been applied when required. Suppressed numbers have been replaced by an 'S'.