



**MINISTRY OF SOCIAL
DEVELOPMENT**

TE MANATŪ WHAKAHIATO ORA

25 JUN 2020

Tēnā koe

On 15 April 2020, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- 1. What benefit fraud has cost the taxpayer in every financial year since 2011?*
- 2. How many people were prosecuted by the Ministry of Social Development in relation to benefit fraud in each of the following years; 2014, 2015, 2016, 2017, 2018, 2019 and 2020 to date?*
- 3. In addition, how many people were convicted in relation to benefit fraud in each of those same years?*
- 4. Again, in each of those same years, how many MSD staff members have been prosecuted in relation to benefit fraud and how many MSD staff members have been convicted in relation to benefit fraud?*
- 5. Who fraudulently gained the largest amount of money in 2019 from MSD and how much was it? How much, if any, has been recouped?*
- 6. Similarly, who fraudulently gained the largest amount of money in 2018 from MSD and how much was it? How much, if any, has been recouped?*
- 7. And lastly, who has committed the single largest benefit fraud irrespective of year and how much was it? How much, if any, has been recouped?*

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. The Ministry actively looks to prevent, detect and reduce incidences of benefit fraud.

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

- 1. I'd like to please find out what benefit fraud has cost the taxpayer in every financial year since 2011?*

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, which can result in an overpayment.

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

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 Ministry is unable to provide the total amount benefit fraud has cost the taxpayer in every financial year since 2011 as multiple government agencies can be involved including through data sharing and in the benefit fraud investigation and prosecution process, and therefore the Ministry is unable to answer this question in its entirety. As such, this aspect of your request is refused under section 18(g) of the Act as this 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.

For the sake of transparency, and to meet the intent of your request, the Ministry can provide you with all overpayments the Ministry has established, and the operational costs of investigating benefit fraud.

Please find enclosed the following two tables in answer to question one of your request:

- **Table One:** Total amount of overpayments broken down by financial year for the period 1 July 2010 to 30 June 2019.
- **Table Two:** Total operational costs for benefit fraud investigations, broken down by financial year for the period 1 July 2010 to 30 June 2019.

Please note that the 2018/19 financial year is the Ministry's most recent data available, as data relating to benefit fraud is reported annually. Data for the financial year 2019/20 will be made available as soon as possible after the financial year ends, should you wish to make a request for this information at this time.

2. *Can I please also find out how many people were prosecuted by the Ministry of Social Development in relation to benefit fraud in each of the following years; 2014, 2015, 2016, 2017, 2018, 2019 and 2020 to date?*
3. *In addition, how many people were convicted in relation to benefit fraud in each of those same years?*

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 will always be appropriate to prosecute some people due to the 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.

The Fraud Prosecution Review Panel 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, the Panel approach helps to provide a broader view of public interest.

Please find enclosed **Table Three** which shows the number of benefit fraud prosecutions completed, and the number of successful prosecutions completed, broken down by financial year for the period 1 July 2013 to 30 June 2019.

Our prevention and early detection focus have led to a reduction in the number of cases being prosecuted.

4. *Again, in each of those same years, how many MSD staff members have been prosecuted in relation to benefit fraud and how many MSD staff members have been convicted in relation to benefit fraud?*

The Ministry has a zero-tolerance policy which sets out our responsibilities as Ministry staff regarding fraud and the protection of client information that builds on its Code of Conduct.

As a Ministry we take these responsibilities very seriously and any deliberate fraud will not be tolerated. In every case where a staff member is caught defrauding the system they will be dismissed and in every case the matter will be referred for prosecution. As well as any penalty the Court might impose, the Ministry will also take every possible step to recover the money obtained fraudulently.

Our standards ensure that we, as public servants, act honestly and with integrity at all times. It is important that adequate finance and information internal control systems are in place within areas of responsibility, and that they operate effectively to safeguard public resources for which we are responsible.

From 2014 to 2019, there were a total 36 prosecutions regarding benefit fraud which involved 32 Ministry staff. Of those prosecutions, 29 convictions were made.

Please note that prior to April 2017, the Ministry also included Child, Youth and Family (CYF) and were one agency. As such, any benefit fraud prosecutions prior to April 2017 may have involved CYF staff who were employed by the Ministry.

The Ministry is unable to provide a yearly breakdown of the number of benefit fraud prosecutions involving Ministry staff and the number of convictions as you have requested. Due to the numbers being very low, this may lead to individuals being identified and heavy suppression would be required in order to provide a breakdown of the total number for each year since 2014. However, the Ministry can provide you with a total number, as provided above.

As such, the form in which you have requested this information is withheld under section 9(2)(a) of the Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

5. *Who fraudulently gained the largest amount of money in 2019 from MSD and how much was it? How much, if any, has been recouped?*
6. *Similarly, who fraudulently gained the largest amount of money in 2018 from MSD and how much was it? How much, if any, has been recouped?*

The maximum overpayment where there was a successful prosecution for the financial year 2017/18 was \$212,174.74, and for the financial year 2018/19 was \$272,580.24.

Please note that the names of the individuals with the maximum overpayment for the specified years are withheld under section 9(2)(a) of the Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

The Ministry has a variety of reporting tools available to look at debt. Each reporting method has its own strengths and limitations and serves different purposes for the Ministry.

The Ministry's record system that is used to record individual debt repayments does not align the repayments to specific debts but generally applies the repayment to the oldest debt.

Consequently, the system cannot be used to address your request for the total amount the Ministry has recovered for the two debts in question. Your request for this information is therefore refused under section 18(f) of the Act, as in order to provide you with this information, Ministry staff would have to manually review hundreds of individual payments over the two financial years. The greater public interest is in the effective and efficient administration of the public service.

I have considered whether the Ministry would be able to respond to your request given extra time, or the ability to charge for the information requested. I have concluded that, in either case, the Ministry's ability to undertake its work would still be prejudiced.

7. And lastly, who has committed the single largest benefit fraud irrespective of year and how much was it? How much, if any, has been recouped?

As you may be aware, it is public knowledge that New Zealand's largest benefit fraud was committed by Mr Wayne Thomas Patterson.

As previously reported, Mr Patterson's primary debt to the Ministry of \$3.41 million stemmed from benefit fraud he committed between 2003 and 2006. The Crown recovered \$2.1 million in New Zealand and \$1.1 million from Switzerland. Cash and shares from an account in Austria were recovered and sold, realising a further \$4.03 million. In total, the Crown recovered approximately \$7.2 million from New Zealand, Switzerland, and Austria. These funds have been paid into the Crown Consolidated Account.

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. The Ministry will do this by publishing this letter and attachments 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 benefit fraud prosecutions, 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.

Nāku iti, noa,nā

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

George Van Ooyen
Group General Manager

Table One: Total amount of benefit fraud overpayments broken down by financial year for the period 1 July 2010 to 30 June 2019

End of June	Financial year									
	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	
Total overpayments	\$37,437,279	\$36,159,690	\$44,514,533	\$59,255,970	\$51,736,219	\$48,523,101	\$43,885,878	\$35,723,471	\$25,832,089	

Table Two: Total operational costs for benefit fraud investigations, broken down by financial year for the period 1 July 2010 to 30 June 2019

Appropriation Costs	Financial Year									
	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	
Benefit Fraud Appropriation Costs	\$13,584,167	\$14,312,358	\$13,527,576	\$14,118,293	\$14,203,665	\$13,502,748	\$13,372,290	\$14,027,027	\$13,811,586	

Notes:

- The total operational costs for benefit fraud investigations include staff salaries.

Table Three: Number of benefit fraud prosecutions completed, and the number of successful prosecutions completed, broken down by financial year for the period 1 July 2013 to 30 June 2019

Item	Year ending 30 June					
	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
Prosecutions completed	893	958	619	453	291	127
Successful prosecutions completed	868	927	598	436	277	121

Notes:

- This is a count of prosecutions, not clients prosecuted; a client may have more than one prosecution in a period.
- This is also a count of all successful prosecutions. Prosecutions are counted in the year they are completed.
- "Successful" is defined as:
 - conviction and sentence,
 - convicted and discharged,
 - discharged without conviction.
- "Unsuccessful" is defined as:
 - found not guilty, or
 - withdrawn for reasons within the Ministry's control.