



1 December 2021

Tēnā koe

On 1 October 2021, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- 1. How many complaints of bullying have been made within MSD, broken down by year, and how many of those were substantiated?*
- 2. How many complaints of harassment have been made within MSD, broken down by year, and how many of those were substantiated?*
- 3. How many complaints of sexual harassment have been made within MSD, broken down by year, and how many of those were substantiated?*
- 4. How many complaints of sexual assault have been made within MSD, broken down by year, and how many of those were substantiated?*

At the end of October 2021, the Ministry has 9,344 employees (permanent and fixed term) who provide income assistance and services to more than one million New Zealanders each year.

The Ministry takes its obligations as an employer to provide a safe and healthy work environment seriously. As such, the Ministry does not tolerate bullying, sexual harassment or assault. 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.

The Ministry's Positive Workplace Behaviours policy also includes guidelines on inappropriate behaviour, bullying, discrimination, harassment, and sexual harassment.

Bullying is described as repeated and persistent, offensive, abusive, intimidating, malicious or insulting behaviour. It is repeated, intentional and unreasonable behaviour towards an employee or a group of employees that can lead to physical or psychological harm.

Workplace harassment is described as unwanted and unprovoked behaviour that is offensive, intimidating or humiliating to another person. It is either repetitive or of such a significant nature that it has a detrimental effect on a person's dignity, safety or sense of wellbeing.

Examples of workplace harassment or bullying may include:

- repeated, unfounded criticism in front of colleagues
- the use of offensive language
- isolating an employee (e.g. not including someone in workplace activities that all employees in a similar position can expect to be involved in)
- withholding information to ensure an employee fails to achieve a given task
- making derogatory and frequent inappropriate comments about an employee's appearance or dress
- spreading malicious rumours or insulting an employee by word or action
- overbearing supervision
- misuse of power or position.

Sexual harassment is described as unwelcome or offensive verbal or physical behaviour of a sexual nature that is repeated or is significant enough to have a harmful effect on an individual's employment, job performance or job satisfaction.

Behaviour includes the use of language (written or spoken), visual material, or physical behaviour, and includes requests of a sexual nature to an employee (directly or indirectly) that contain an implied or overt promise of preferential treatment or threat of detrimental treatment.

Examples of sexual harassment may include:

- offensive gestures or verbal comments
- unwanted and deliberate physical contact
- unwelcome comments, questions about an employee's sexual activities, orientation or private life
- sexual propositions or requests for dates, especially after prior refusal
- continued unwelcome social invitations, phone calls or texts from a work colleague or a client
- display of pictures, screensavers or other material of a sexual nature
- sexual behaviour such as leering or staring at an employee's body
- unwelcome sexual or smutty jokes
- offensive email messages or texts
- suggestions for preferential treatment at work in return for sexual favours
- threats or suggestions of a negative impact on an employee's position if favours are not granted.

The Ministry acknowledges that bullying, harassment, and sexual harassment may take many forms, and the above lists are not exhaustive.

Employees have a range of ways to raise concerns about inappropriate behaviour. How they do this can depend on the circumstances and how serious the behaviour is.

This can include:

- talking to their manager, another manager or colleague
- reporting into STAR (Security, Threats, Accidents and Risks) – the Ministry’s notification system for confidential reporting of sensitive events (including inappropriate workplace behaviour, bullying and sexual harassment) directly through to specialist Human Resource Advisors
- raising concerns directly with the person (for general inappropriate behaviour).

Employees can also seek support from a peer support person or union delegate.

When the Ministry receives a complaint, the nature of the concern is assessed to decide on the most appropriate pathway to address the complaint. Making that assessment may include requesting more information from and/or meeting with the person who made the complaint. We may also consider the person’s preferences as to how we approach the complaint. The approach taken can range from formal investigation processes (which may result in disciplinary outcomes) to an agreed resolution between the parties.

When the Ministry receives a sexual harassment complaint, the person who made the complaint is advised that they are entitled to:

- seek independent legal advice if they believe they have been the victim of a criminal offence. Where an assault or serious intimidation is alleged, it may be appropriate to support the person who made the complaint 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.

Employees can access internal and external support at any stage including:

- confidential counselling and support through the Ministry’s Employee Assistance Programme (up to six initial sessions are provided free to the employee and more can be approved)
- Poutuarā – peer support at MSD, and
- Safe to Talk (a helpline for sexual harm).

Please note that to reduce the amount of manual collation required in this response, we have provided the outcome types as recorded in Ministry’s HR system.

The Ministry’s HR System includes an outcome type of “not substantiated” but does not have an outcome type of “substantiated”. Cases other than those “not substantiated” may have an outcome which includes No Action, Resolved, Written Warning, or Letter of Expectation. Please note that this approach differs from the

response to the Official Information Act request you made on 23 March 2021, where the outcomes of cases were manually assessed into outcome categories of “substantiated” or “not substantiated” complaints rather than outcomes.

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

1. *How many complaints of bullying have been made within MSD, broken down by year, and how many of those were substantiated?*

**Table One: The number of bullying complaints within the Ministry, from 1 January 2016 to 30 September 2021**

<b>Year</b>	<b>Number of Complaints of Bullying</b>	<b>Outcomes</b>
<b>2016</b>	15	Not substantiated: 11 Final written warning and Performance Improvement Plan (PIP) alleged bully / harasser: 1 First written warning: 1 Letter of expectation: 1 Complainant resigned: 1
<b>2017</b>	19	Not substantiated: 16 Performance Improvement Plan (PIP) alleged bully / harasser: 1 Letter of expectation: 2
<b>2018</b>	13	Not substantiated: 10 Final written warning: 2 Facilitation process: 1
<b>2019</b>	0	-
<b>2020</b>	1	In progress (outcome not determined): 1
<b>2021</b>	5	Not substantiated: 1 In progress (outcome not determined): 1 Resolved <sup>1</sup> : 2 Resignation: 1 <sup>2</sup>

<sup>1</sup> The outcome of “resolved” is used when the parties have reached an understanding and resolved the matter.

<sup>2</sup> Note: this complaint was of “bullying and sexual harassment” and is also counted in the response for sexual harassment complaints for 2021.

2. *How many complaints of harassment have been made within MSD, broken down by year, and how many of those were substantiated?*

**Table Two: The number of complaints of harassment within the Ministry, from 1 January 2016 to 30 September 2021**

<b>Year</b>	<b>Number of Complaints of Harassment</b>	<b>Outcomes</b>
<b>2016</b>	4	Not substantiated: 1 Verbal warning: 1 Resigned / Settled: 2
<b>2017</b>	2	Letter of expectation: 2
<b>2018</b>	8	Not substantiated: 3 Letter of expectation: 4 Final Written Warning: 1
<b>2019</b>	0	-
<b>2020</b>	2	Resignation: 1 No action: 1
<b>2021</b>	5	Not substantiated: 2 First written warning: 1 Resignation: 2

**Notes for Table One and Two:**

- Data is drawn from the Ministry's HR CRM (Customer Relationship Management) system and includes cases that have been escalated to the HR Consultancy team.
- Note that there may be concerns that are raised and resolved at a local level that are not escalated to MSD's HR Consultancy team. These are not centrally recorded and are therefore not able to be included in the numbers above.
- Note that relevant concerns reported through STAR, the Ministry's notification system for confidential reporting of sensitive events, are escalated to MSD's HR Consultancy team where appropriate and included HR CRM reporting.
- The information has been provided in the response by calendar year.
- Please note in the response that up to April 2017 the cases include those for Child, Youth and Family. From this date Oranga Tamariki was established.

3. *How many complaints of harassment have been made within MSD, broken down by year, and how many of those were substantiated?*

Please refer to the Ministry's Official Information Act response to you dated 20 May 2021 for the period from 2016 to 2020. The Ministry's HR system received one complaint of sexual harassment in 2021 which is recorded in the table of harassment complaints above.

4. *How many complaints of sexual assault have been made within MSD, broken down by year, and how many of those were substantiated?*

Please refer to the Ministry's Official Information Act response to you dated 20 May for the period from 2016 to 2020. In 2021, the Ministry's HR system did not receive any complaints of sexual assault.

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 on the Ministry'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](mailto:OIA_Requests@msd.govt.nz).

If you are not satisfied with this response complaints of sexual assault and harassment, 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](http://www.ombudsman.parliament.nz) or 0800 802 602.

Ngā mihi nui



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