



17 MAY 2021

Dear

On 17 April 2021, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- *All briefings, papers, aides memoire, and any other written material provided to Minister for Social Development Carmel Sepuloni covering the policy development for, and establishment and updates on the operation of, MSD's:*
  - *three-tiered approach to responding to benefit fraud allegations, and*
  - *Fraud Prosecution Review Panel.*

For the sake of clarity, I will now respond to each of your questions in turn.

- *All briefings, papers, aides memoire, and any other written material provided to Minister for Social Development Carmel Sepuloni covering the policy development for, and establishment and updates on the operation of, MSD's:*
  - *three-tiered approach to responding to benefit fraud allegations*

As part of its prevention focus, the Ministry has a graduated approach for responding to allegations of benefit fraud. This includes early intervention, facilitation and, in the most serious cases, investigation. This is supported by international best practice, in that *"prevention is the most effective way to address fraud and corruption - preventing fraud through effective counter fraud practices reduces the loss and reputational damage. It also requires less resources than an approach focused on detection and recovery."*<sup>1</sup>

To date, the Ministry has not provided Hon Carmel Sepuloni, Minister for Social Development and Employment (the Minister), with any specific written material covering the policy development for, and establishment and updates on the operation, of the Ministry's the three-tiered approach in response to benefit fraud allegations. However, the approach was discussed in the Welfare Expert Advisory Group (WEAG) report which the Minister did receive. You can find this report online at the following link: [www.weag.govt.nz/](http://www.weag.govt.nz/).

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<sup>1</sup> International Public Sector Fraud Forum (IPSFF), 2020. The IPSFF consists of representatives from Public Sector organisations in Australia, New Zealand, Canada, the United Kingdom, and the United States. The Forum's five principles for public sector fraud can be viewed at: <https://www.gov.uk/government/publications/international-public-sector-fraud-forum-guidance>

The Welfare Expert Advisory Group recommended that our three tier approach to responding to allegations of fraud should be endorsed and agreed "it fits well with a more preventative way of responding to, and reducing, potential fraud."

- *All briefings, papers, aides memoire, and any other written material provided to Minister for Social Development Carmel Sepuloni covering the policy development for, and establishment and updates on the operation of, MSD's:*
  - *Fraud Prosecution Review Panel.*

The Prosecution Review Panel is made up of staff from across different business units of the Ministry and makes the final decisions on whether a case will go to prosecution.

When considering prosecution, the Ministry uses the Solicitor-General's Prosecution Guidelines as the main reference point when making a decision about that 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.

There are two factors to the 'Test for Prosecution'; 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; and if the case meets the 'Evidential Test' requirements, the Ministry 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.

The decision to prosecute is often complex. The Ministry must balance considerations of a client's alleged dishonest actions against their personal circumstances and the effect a prosecution might have on their ability to attain independence and their ability to maintain their health and wellbeing.

The final decision on whether cases are to be prosecuted is made by a Fraud Prosecution Review Panel which applies the 'Public Interest Test'.

To date, the Ministry has not provided the Minister with any written material regarding the policy development for, and establishment and updates on the operation, of the Ministry's Fraud Prosecution Panel. As such, I am also refusing this part of your request under section 18(e) of the Act as this information does not exist or, despite reasonable efforts to locate it, cannot be found.

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
- 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 available to the wider public. The Ministry will do this by publishing this 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](mailto:OIA_Requests@msd.govt.nz).

If you are not satisfied with this response regarding the Fraud Prosecution Review Panel and the three-tiered approach to responding to benefit fraud allegations, 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.

Yours sincerely

A handwritten signature in black ink, appearing to read 'George Van Ooyen', with a long horizontal flourish extending to the right.

George Van Ooyen  
**Group General Manager**  
**Client Service Support**