



31 JUL 2018

Dear 

On 10 May 2018 you emailed the Ministry requesting, under the Official Information Act 1982, information regarding sexual harassment in the Ministry.

A response has been submitted to the survey provided. Please find below important context when interpreting the results provided.

At any one time, the Ministry has around 7,000 employees who provide income assistance and services to more than one million New Zealanders each year.

Please note that when compiling the data requested, a very broad interpretation was taken of complaints. The data also includes complaints involving individuals not employed by the Ministry, such as complaints of sexual harassment of an employee by a Work and Income client.

The response to question 18 identifies seven complaints that were upheld. For the purposes of this response, all complaints which resulted in a finding of inappropriate behaviour are considered to be upheld. All seven cases resulted in the Ministry giving a verbal or written warning of some kind to the subject of the complaint. Please note that none of these cases found behaviour that justified the termination of employment. Where inappropriate behaviour is found, the Ministry takes all reasonable steps to ensure there is no reoccurrence of the behaviour.

The eight complaints which were rejected by the Ministry were done so only after a thorough investigation occurred, including, where the complainant raised it with them, by the Police, and no sexual harassment was established.

Finally, you will note that the outcomes of nine complaints are recorded as 'other'. This includes instances in which the complaints were resolved informally by the agreement of both parties, and no formal action was required. This also includes some instances in which the subject of the complaint left the Ministry prior to the conclusion of an investigation, and as such no investigation could be completed.

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The Ministry did not refer any cases to the Police or another organisation. As per the answer to question 7, however, some cases were referred to the Ministry after initially being made through the Police or another organisation.

The Employment Relations Act 2000 (the Act) legislates employer obligations regarding sexual harassment and abuse in the workplace. The Ministry takes seriously its obligations under this legislation to provide a safe work environment to all staff.

In accordance with the Act, and the State Services Standards of Integrity and Conduct, the Ministry's Code of Conduct (the Code) sets out actions that are treated as serious misconduct. This list includes:

- conduct or behaviour that results in, or may have resulted in, personal injury to others
- sexual or other forms of serious harassment
- assault/ threatening or intimidating behaviour in the workplace or in the course of carrying out Ministry duties

Sexual harassment guidelines are also included in the Ministry's Workplace Harassment and Bullying policy. Sexual harassment is described 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 our Code of Conduct, we will conduct a formal investigation of the complaint raised, or 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 interviews. Complainants may also access free confidential counselling support through the Ministry's Employee Assistance Programme.

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.

Please also note that complaints involving staff of the former Child, Youth, and Family are included in this data prior to 1 April 2017. From this date, Oranga Tamariki, the Ministry for Children was established, and approximately 3,000 staff were transferred to the new agency. I understand this request has also been made of Oranga Tamariki and this information will therefore be included in that agency's response. In answering questions 10 and 14 of the survey, please note that some of those staff who were involved in a complaint may now be working in Oranga Tamariki.

It is paramount that employees conduct themselves in a way that reflects the trust New Zealanders put in the Ministry. All new employees, including all managers, are required to read the Ministry's Code of Conduct, which is aligned to the Public Service Code of Conduct and which guides employees' actions and behaviours to enable staff to serve the government of the day. Given its importance, refresher training of the Ministry's Code of Conduct is provided to all employees.

Please note that this response includes the whole of the Ministry of Social Development, including the Office for Seniors, the Office for Disability Issues, and the Ministry of Youth Development.

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 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 in 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



Stephen Crombie
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