



29 OCT 2018



Dear 

On 21 August 2018, you emailed the Ministry requesting, under the Official Information Act 1982, the following information:

- *Please provide information showing the number of bullying complaints that have been made by employees of the Ministry of Social Development in 2017 and 2018.*
- *Please provide information showing the number of sexual harassment complaints that have been made by employees of the Ministry of Social Development in 2017 and 2018.*
- *Please provide a breakdown showing whether the complaints were laid by a male or female employee, and where in the country the employee was working.*
- *Please provide information showing what happened to the complaints. For example, whether a complaint was resolved internally, whether any disciplinary action was taken and if so what this was, or if the complaint was escalated to the Employment Relations Authority and what the outcome of that was. Please note this is not an exhaustive list of possible actions regarding the outcome of complaints made by employees of the Ministry of Social Development.*
- *Please also provide information showing what the Ministry of Social Development's policy is when a complaint of bullying and/or sexual harassment is made by an employee.*

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

Workplace bullying is defined by the Ministry as unwanted and unprovoked behaviour that is offensive, intimidating, or humiliating and is repeated, or significant enough as a single incident, and which has a detrimental effect upon a person's dignity, safety, or sense of wellbeing. This could include:

- repeated criticism in front of colleagues
- the use of offensive language
- isolating an employee
- spreading malicious rumours, or insulting an employee by word or behaviour.

This list is not exhaustive. The Ministry recognises that workplace bullying can take many forms and does not tolerate it in any situation.

All complaints of bullying or harassment received by the Ministry are treated seriously and confidentially, and are followed by an investigation to determine the appropriate course of action, including possible disciplinary action.

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 any meetings. 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.

The Ministry has identified 38 bullying or sexual harassment complaints made by employees during the 1 January 2017 to 4 September 2018 period. Please find attached Table 1 showing the number of complaints that were made for this period, broken down by gender. Please also find attached Table 2 showing where in the country an employee was working who made a complaint. Finally, please also find attached Table 3 showing the outcomes of complaints that were made by employees of the Ministry.

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.

Table 3 identifies seven complaints that were upheld and resulted in the Ministry taking formal action. Please note that the seven complaints also includes instances in which the inappropriate behaviour complained of did not relate to sexual harassment or bullying.

The 13 complaints which were not substantiated were done so only after a thorough investigation occurred, including some cases by the Police, and no sexual harassment or bullying was determined.

Finally, you will note that there are other outcomes in 12 complaints. 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 retired or otherwise left the Ministry prior to the complaint being investigated, and as such no further action was required.

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 regarding bullying and sexual harassment complaints, 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



PP
Stephen Crombie
Deputy Chief Executive, Corporate Solutions

Table 1: Number of bullying and sexual harassment complaints made by employees during the 1 January 2017 to 4 September 2018 period, broken down by gender of the complainant/employee.

	Female	Male	Anonymous
Bullying complaints made in 2017	17	3	1
Bullying complaints made during 1 January 2017 to 4 September 2018	12	1	0
Sexual harassment complaints made in 2017	3	1	0
Sexual harassment complaints made in 2018	1	0	0

Note:

- One sexual harassment complaint in 2017 has been counted more than once as it was received by more than one employee.

Table 2: Number of bullying and sexual harassment complaints made by employees during the 1 January 2017 to 4 September 2018 period, broken down by location in which employee was working.

Location	
Northland	1
Auckland	14
Waikato	2
Bay of Plenty	3
East Coast	1
Wellington	13
Canterbury	3
Otago	1
Total	38

Table 3: Number of bullying and sexual harassment complaints made by employees during the 1 January 2017 to 4 September 2018 period, broken down by outcome.

Outcomes of complaints	
Letter of Expectation issued	5
Written Warning issued	1
Complaint not Substantiated	13
Resolved by Agreement	8
Complainant resigned	3
Complainant retired	1
Performance Improvement Plan	1
Investigation Ongoing	6
Total	38