



11 MAR 2020

Dear [REDACTED]

On 10 January 2020, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982, the following information:

- *Ideally in table format, for each of the past five years (2015-2019):*
 1. *The number of sexual harassment allegations received*
 2. *The number of sexual harassment allegations which were laid as formal complaints*
 3. *The number of internal investigations into sexual harassment allegations*
 4. *The number of external investigations into sexual harassment allegations (in some cases, a single allegation will have both internal and external investigation – it might be helpful to note somewhere if this was the case to avoid double counting)*
 5. *The number of sexual harassment allegations which were upheld/substantiated/proved/found likely to be true*
 6. *The number of mediated settlements or resolutions resulting from sexual harassment allegations*
 7. *The number of other types of settlements or resolutions resulting from sexual harassment allegations*
 8. *The amount of financial compensation included in those settlements*
 9. *Whether those settlements included a confidentiality agreement or non-disclosure agreement (note: the standard MBIE mediation under section 149 of the Employment Relations Act includes a confidentiality clause, please state if the settlement was the MBIE settlement).*

At the end of February 2020, the Ministry had 7,453.4 Full Time Equivalent (FTE) or a headcount of 7,601 current 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 very seriously. As such, the Ministry does not tolerate sexual 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.

Sexual harassment guidelines are also included in the Ministry's Positive Workplace Behaviours policy. 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 sexual harassment may take many forms, and the above list is 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 reporting sensitive events (including sexual harassment) directly through to specialist Human Resource (HR) Advisors
- raising concerns directly to 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. 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 an approach. 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 that 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.

The Ministry encourages people who experience harassment, bullying or discrimination to take action to try to stop the behaviour and prevent it happening again. There are a number of ways to resolve an issue or instance of inappropriate behaviour including:

- resolve it yourself – for example, where you speak directly to the person involved and request they stop the behaviour that is viewed as inappropriate
- informal intervention – for example, if you ask a colleague, union delegate or manager to raise the matter with the person involved
- facilitated discussion (e.g. mediation) - having an independent third-party act as facilitator in either an informal or formal setting to discuss and resolve the issue
- formal complaint and investigation – an HR Consultant or external investigator works with the manager to investigate the complaint
- external processes (such as lodging a complaint with the Human Rights Commission, seeking resolution through an external mediator, or lodging a personal grievance).

Regardless of the approach taken, sexual harassment is considered a serious matter and all complaints are treated accordingly.

As part of the investigation, the person who made the complaint, respondent and any witnesses for both the person who made the complaint and respondent will be interviewed. Each person who is interviewed is entitled to have a representative (e.g. a union representative, a lawyer, family member, whanau support or colleague) present to support them.

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)
- the Ministry's Peer Support Programme, and
- Safe to Talk (a helpline for sexual harm).

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

1. *The number of sexual harassment allegations received*
2. *The number of sexual harassment allegations which were laid as formal complaints*

Please find two tables below which show the number of sexual harassment allegations received, and the number of sexual harassment allegations laid as formal complaints in the years 2015-2019.

Table 1: The number of sexual harassment allegations received between 2015 and 2019

Year	Number received
2015	6
2016	10
2017	8
2018	7
2019	7

Table 2: The number of sexual harassment allegations which were laid as formal complaints

Year	Number received
2015	5
2016	9
2017	4
2018	7
2019	0

Note: whether a complaint is made formally or otherwise, all sexual harassment allegations are serious, and none were treated on an "informal" basis.

3. *The number of internal investigations into sexual harassment allegations*
4. *The number of external investigations into sexual harassment allegations (in some cases, a single allegation will have both internal and external investigation – it might be helpful to note somewhere if this was the case to avoid double counting)*

All sexual harassment allegations received by the Ministry were treated seriously and investigated.

Two allegations made in 2017 were investigated both internally and externally.

5. *The number of sexual harassment allegations which were upheld/substantiated/proved/found likely to be true*

The below table shows the number of sexual harassment allegations which were upheld, substantiated, or proven.

Table 3: The number of sexual harassment allegations upheld/substantiated/ proven

Year	Number upheld
2015	1
2016	0
2017	0
2018	1
2019	0

6. *The number of mediated settlements or resolutions resulting from sexual harassment allegations*
7. *The number of other types of settlements or resolutions resulting from sexual harassment allegations*

The two tables below show the number of mediated settlements resulting from sexual harassment allegations, and the number of other settlements or resolutions resulting from sexual harassment allegations where the conduct identified fell short of Ministry standards.

Table 4: The number of mediated settlements resulting from sexual harassment allegations

Year	Number of settlements
2015	0
2016	1
2017	0
2018	3
2019	0

Table 5: The number of other types of settlements or resolutions resulting from sexual harassment allegations

Year	Outcomes
2015	1 Letter of expectation; 2 resignations; 2 retirements
2016	4 warnings
2017	1 letter of caution; 1 resignation; 2 letters of expectation
2018	1 warning; 1 resignation; 2 letters of expectation
2019	0

8. *The amount of financial compensation included in those settlements*
9. *Whether those settlements included a confidentiality agreement or non-disclosure agreement (note: the standard MBIE mediation under section 149 of the Employment Relations Act includes a confidentiality clause, please state if the settlement was the MBIE settlement)*

There was no financial compensation included in these settlements. All Ministry settlements include confidentiality provisions.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

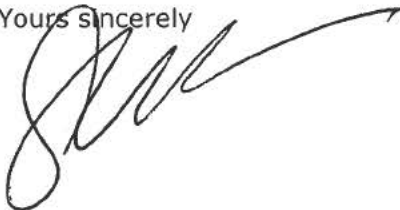
- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this available to the wider public. 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 complaints within 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
Deputy Chief Executive
People and Capability