



31 MAR 2021

On 3 March 2021, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- 1. The number of benefit fraud prosecutions undertaken each year since 2014 to the present day.*
- 2. For each case, whether the outcome was a successful conviction or not, or if the case remains unresolved.*

The Ministry works hard to protect the integrity of the welfare system to ensure it remains fair for all New Zealanders, which can include prosecution where clear evidence of fraud exists.

Potential fraud may be identified from public allegations, information sharing with other agencies, staff referrals or from our Intelligence Unit. When a case is received, the information is assessed based on the level of evidence available to substantiate the level of fraud and risk posed. Based on the assessment, some cases will not be followed up, for example, because there is insufficient information to warrant further action.

The Ministry is increasing its focus on fraud prevention. We want to make it easier for clients to tell us about changes and also harder for clients to get it wrong and maybe end up in debt to us.

The Ministry's fraud teams are increasingly focusing their engagement on helping clients to understand how changes in their circumstances might affect their entitlements. This can then help them decide whether their situation means their entitlements may have changed and need to be adjusted. This increasing focus on fraud prevention is illustrated by the three tier approach implemented across our fraud teams.

All allegations of potential fraud or abuse of benefit payments are responded to in a manner proportionate to the nature of the information received and the potential seriousness of offending.

Tier One - Early Intervention – Making it easier for clients to do the right thing

Tier One is about ensuring clients are aware of the information the Ministry has received about them, their entitlements and obligations, and letting them make a decision about their entitlement to a benefit payment. This involves a letter and/or phone conversation with the client. The Ministry's aim is to identify the correct entitlement going forward, rather than establishing an overpayment.

Tier Two - Facilitation – Providing clients with an opportunity to do the right thing

Tier Two is about working with the client to help them do the right thing. It's about having a more in-depth, face to face conversation with a client about their situation, entitlements and obligations so the client can self-assess whether they are receiving their correct entitlements. Again, the Ministry's aim is to identify the correct entitlement going forward, rather than establishing an overpayment.

Tier Three - Investigation – Protecting the integrity of the benefit system

Tier Three is about undertaking an investigation into a client's entitlement where the Ministry believes they may be committing fraud. The outcome in these cases could be an overpayment, the imposition of a penalty, or in the most severe cases, prosecution.

When considering a prosecution, the Ministry uses the Solicitor-General's Prosecution Guidelines as the main reference point. 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. You can access the guidelines on the Crown Law website here: www.crownlaw.govt.nz/publications/prosecution-guidelines/. There are two factors considered for the 'Test for Prosecution'. Firstly, 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. If the case meets the 'Evidential Test' requirements, the Ministry also 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. This includes considering the individual's situation and the cost to the taxpayer before deciding to prosecute.

The Fraud Prosecution Review Panel makes the final decision regarding whether cases will involve prosecution. The Panel's approach to making prosecution decisions strengthens the process by making sure that responsibility for that decision is broadly shared. In addition, cases considered for prosecution by the Panel are assessed blindly, without ethnicity being declared to the Panel. By having wide representation from around the Ministry, the Panel approach helps to provide a broader view of public interest.

In response to your request, please find **Table One** in **Appendix One**, showing the number of benefit fraud prosecutions completed and the number of successful benefit fraud prosecutions for the financial years 2014 to 2020. The number of prosecutions taken has reduced over recent years. This has been influenced by the increased focus

on prevention and early detection as outlined by the three-tier approach described above, as well in 2020 due to the Ministry's focus on responding to COVID-19.

The principles and purposes of the Act 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 and any attached documents 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 benefit fraud prosecutions, 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



George van Ooyen
Group General Manager
Client Service Support

Appendix 1

Table One: The number of benefit fraud prosecutions completed and the number of successful benefit fraud prosecutions for the financial years 2014 to 2020.

Financial year	2013/ 2014	2014/ 2015	2015/ 2016	2016/ 2017	2017/ 2018	2018/ 2019	2019/ 2020
Prosecutions completed	888	951	615	450	291	126	66
Prosecutions successful	864	921	594	432	276	120	63

Notes:

- This is a count of prosecutions completed for benefit and housing fraud for the financial years 2013/2014 to 2019/2020. This data excludes internal fraud.
- The Ministry's financial year commences on the 1st of July and ends at the 30th of June.
- A prosecution concerns only one person, however, the same person can be prosecuted more than once in a year.
- A prosecution is successful if there is at least one sentence or if the court discharges the offender without conviction according to section 106 of the Sentencing Act 2002.
- To protect confidentiality, the Ministry uses processes to make it difficult to identify an individual person or entity from published data. This data table has had random rounding to base three applied to all cell counts in the table. A value of one or two may be rounded to zero or three. The impact of applying random rounding is that columns and rows may not add exactly to the given column or row totals. The published counts will never differ by more than two counts.