



23 August 2022

Tēnā koe

On 5 July 2022, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

Can I please request the updated information for this request? Can I please have the entirety of 2021 and also 2022 up to July 5?

- *How many complaints of bullying have been made within MSD, broken down by year, and how many of those were substantiated?*
- *How many complaints of harassment have been made within MSD, broken down by year, and how many of those were substantiated?*
- *How many complaints of sexual harassment have been made within MSD, broken down by year, and how many of those were substantiated?*
- *How many complaints of sexual assault have been made within MSD, broken down by year, and how many of those were substantiated?*

The Ministry's response is an update of information provided to your earlier requests, to which we responded to you on 20 May 2021 and 1 December 2021.

The Ministry has around 8,800 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 bullying, sexual harassment or assault. 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.

The Ministry's Positive Workplace Behaviours policy also includes guidelines on inappropriate behaviour, bullying, discrimination, harassment, and sexual harassment.

Bullying is described as repeated and persistent, offensive, abusive, intimidating, malicious or insulting behaviour. It is repeated, intentional and unreasonable behaviour towards an employee or a group of employees that can lead to physical or psychological harm.

Workplace harassment is described as unwanted and unprovoked behaviour that is offensive, intimidating or humiliating to another person. It is either repetitive or of such a significant nature that it has a detrimental effect on a person's dignity, safety or sense of wellbeing.

Examples of workplace harassment or bullying may include:

- repeated, unfounded criticism in front of colleagues
- the use of offensive language
- isolating an employee (e.g. not including someone in workplace activities that all employees in a similar position can expect to be involved in)
- withholding information to ensure an employee fails to achieve a given task
- making derogatory and frequent inappropriate comments about an employee's appearance or dress
- spreading malicious rumours or insulting an employee by word or action
- overbearing supervision
- misuse of power or position.

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 bullying, harassment, and sexual harassment may take many forms, and the above lists are 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 Advisors
- raising concerns directly with 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 to address the complaint. 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 how we approach the complaint. 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 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.

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 free to the employee and more can be approved)
- Poutuarā – peer support at the Ministry, and
- Safe to Talk (a helpline for sexual harm).

Please note that to reduce the amount of manual collation required in this response, we have provided the outcome types as recorded in Ministry's HR system.

The Ministry's HR System includes an outcome type of "not substantiated" but does not have an outcome type of "substantiated". Please note that this approach differs from the response to the request you made on 23 March 2021, which has numbers of "substantiated" complaints rather than outcomes.

Note that the complaints have been identified by searching key terms in the Ministry's HR system that records any enquiries or complaints (cases) escalated to the Ministry's HR Consultancy team. This information was then manually checked to assess whether the case is within scope of your request. Complaints are recorded in the calendar year that the case was opened.

Also note that the complaint category recorded for each case can change over time as further information comes to hand during the investigation process. For example, information can be added or changed as a complaint is investigated which can affect the nature or categorisation of the complaint.

For the complaints recorded for 2021, we have included all complaints from the response to your previous request, made on 1 October 2021, as well as any additional complaints identified from 1 October 2021 to 31 December 2021. Where the latest information indicates the complaint categorisation has changed, the complaint has been recorded under the category that is most appropriate based on the latest information held.

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

1. *How many complaints of bullying have been made within MSD, broken down by year, and how many of those were substantiated?*
2. *How many complaints of harassment have been made within MSD, broken down by year, and how many of those were substantiated?*

Please note that due to the low numbers involved and the detail of the outcomes being provided, we have combined the information for questions one and two in order to protect the privacy of Ministry employees under section 9(2)(a) of the Privacy Act 2020.

Table One: The number of complaints of bullying or harassment within the Ministry, from 1 January 2021 to 5 July 2022

Year	Number of complaints of bullying or harassment	Outcomes
2021	8 ¹	Not substantiated: 2 Resolved ² : 4 Resignation ³ : 2
2022 (to 5 July)	1	Not substantiated: 1

3. *How many complaints of sexual harassment have been made within MSD, broken down by year, and how many of those were substantiated?*
4. *How many complaints of sexual assault have been made within MSD, broken down by year, and how many of those were substantiated?*

Please note that due to the low numbers involved and the detail of the outcomes being provided, we have combined the information for questions three and four in order to protect the privacy of Ministry employees under section 9(2)(a) of the Privacy Act 2020.

¹ Note that this number differs from the previous response to your request made on 1 October 2021. There were three complaints recorded as 'harassment' that have been reassessed (based on the latest information available) to better fit the complaint category of 'sexual harassment'. One further complaint recorded as 'harassment' was reassessed to the complaint category of 'bullying'. One complaint is also recorded in table two as a sexual harassment complaint for 2021.

² The outcome of "resolved" is used when the parties have reached an understanding and resolved the matter.

³ "Resignation" refers to resignation of the person who the complaint is made against.

Table Two: The number of complaints of sexual harassment or sexual assault within the Ministry, from 1 January 2021 to 5 July 2022

Year	Number of complaints of sexual harassment or sexual assault	Outcomes
2021	5 ⁴	First Written Warning: 1 Final Written Warning: 1 Resignation: 2 In progress: 1
2022 (to 5 July)	1	Final Written Warning: 1

Notes for all Tables:

- Data is drawn from the Ministry’s HR system and includes cases that have been notified to the HR Consultancy team.
- The information has been provided in the response by calendar year
- The information in this response was identified by:
 - Identifying terms for the purpose of free text searches in 3 core HR System fields (subject, description, disciplinary); these were:
 - “bull” for bullying
 - “Harass” and “Harrass” (spelling variations) for harassment and sexual harassment
 - “assault” for sexual assault.
 - Conducting a free text search to look for any references to these terms.
 - Identifying any matches for cases within the year the case was opened.
 - Reviewing the comments/narrative in the 3 columns to determine whether the case is in scope of the request.

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

⁴ Note that this number differs from the previous response for 2021. There were three complaints recorded as ‘harassment’ that have been reassessed (based on the latest information available) to better fit the complaint category of ‘sexual harassment’.

- 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'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 about complaints to the Ministry of bullying, harassment, sexual harassment, and sexual assault, 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.

Ngā mihi nui

A handwritten signature in blue ink, appearing to read 'CML', is positioned above the typed name.

Cain McLeod
Group General Manager People