



14 APR 2021

Dear

On 15 March 2021, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information regarding our response provided to you on 11 March 2021:

1. *In how many cases was prosecution contemplated? In those cases, what was the Ministry's basis for taking a decision not to prosecute including in respect of each limb of the Test for Prosecution?*
2. *Please list all the enforcement actions the Ministry considers available to it in respect of the wage subsidy.*
3. *Has the Ministry contemplated and/or pursued any other enforcement action, including civil proceedings for the recovery of any amount?*
 - a) *If contemplated and/or pursued, in how many cases?*
 - b) *If contemplated but not pursued, what was the basis for that decision?*

In March 2020, the Government implemented an economic package in response to the COVID-19 pandemic. The package consisted of taxpayer funded subsidies for those who were in business and were either self-employed or employed others and met the eligibility criteria. Subsequently, because of the on-going impacts of COVID-19, there were extensions to the package to continue supporting employers in retaining their staff. All payments pursuant to the package and subsequent extensions are collectively referred to as the Wage Subsidy.

The Wage Subsidy was initiated quickly, based on a high trust model, to ensure employers could pay their employees without delay. Where the Wage Subsidy was fraudulently obtained and/or retained where it should not have been, there is an expectation that the Ministry will respond to the loss of those public funds.

I will now respond to your questions in turn.

1. *In how many cases was prosecution contemplated? In those cases, what was the Ministry's basis for taking a decision not to prosecute including in respect of each limb of the Test for Prosecution?*

To date, five cases have been considered for one or more of the responses outlined in the response to question 2, below. Of these:

- Two are being prepared for civil recovery action (if the applicant voluntarily makes the requested refund, this action would not be proceeded with).
- Three have been referred to investigators for further action before making a final decision on the appropriate response.

Where a decision has been taken not to prosecute, this is because the evidence available did not meet the standard required to prove a criminal offense beyond reasonable doubt.

2. *Please list all the enforcement actions the Ministry considers available to it in respect of the wage subsidy.*

The Ministry's enforcement actions may include prosecution, recovery through the civil courts, and/or recovery through restraint and forfeiture pursuant to the Criminal Proceeds (Recovery) Act 2009. A copy of this Act can be found at the following link: www.legislation.govt.nz/act/public/2009/0008/latest/whole.html.

3. *Has the Ministry contemplated and/or pursued any other enforcement action, including civil proceedings for the recovery of any amount?*
 - a) *If contemplated and/or pursued, in how many cases?*
 - b) *If contemplated but not pursued, what was the basis for that decision?*

Please refer to my response to question one of your request.

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 prosecution and further enforcement actions with regard to the Wage Subsidy, 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

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

George van Ooyen
Group General Manager
Client Service Support