



18 July 2022

Tēnā koe

On 22 June 2022, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information regarding our previous response to you, dated 16 June 2022:

1. *Who sits on the prosecution panel you mention on P1 of your response?*
2. *What is the background and experience of each of those members?*
3. *In the last three years, what is the number of cases that have backlogged because of Covid subsidy cases?*
4. *What effect has the Covid Subsidy Fraud Investigations had on Wage Benefit Fraud Investigations.*

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

1. *Who sits on the prosecution panel you mention on P1 of your response?*
2. *What is the background and experience of each of those members?*

The Ministry determines cases for prosecution based on the Ministry's Prosecution Policy and decisions must comply with the Solicitor-General's Prosecution Guidelines.

- www.msd.govt.nz/about-msd-and-our-work/about-msd/our-responsibilities/prosecution-policy.html.
- www.crownlaw.govt.nz/assets/Uploads/Prosecution-Guidelines/ProsecutionGuidelines2013.pdf.

Ministry's Prosecution Policy establishes a structured approach for all prosecution activity the Ministry of Social Development undertakes. The policy was developed following internal and external consultation, including Ministry Senior Management Governance and the Public Prosecution Service.

The Ministry's Prosecution Review Panel (the Panel) was established to consider submissions where an investigation has identified fraud, to decide if a prosecution is the appropriate response to that fraud.

The Panel is made up of senior, experienced staff and managers from across different Ministry business units. Prospective Panel members are required to complete a targeted training workshop before being able to sit on the Panel.

The Panel is chaired by the General Manager Integrity and Debt (or a deputy) and a quorum requires a minimum of five members, including the Chair, at least one senior lawyer and at least one representative from an area of the Ministry other than Client Service Integrity.

The decision to prosecute is often a complex one and the Panel approach strengthens the decision-making process.

A case will only be submitted to the Panel for consideration of "public interest" after a lawyer is satisfied that the evidential test requirements have been met. The Panel approach helps to provide a broad view of "public interest", allowing the Ministry to make better informed decisions.

The Panel's task is to consider whether it is in the public interest to proceed with a prosecution and therefore make the final decision on whether to prosecute or not.

The Solicitor-General Guidelines include a two-part test that must be met before deciding to prosecute:

- that the evidence which can be adduced in Court is sufficient to provide a reasonable prospect of conviction – the Evidential Test; and
- that a prosecution is required in the public interest – the Public Interest Test.

3. *In the last three years, what is the number of cases that have backlogged because of Covid subsidy cases?*

4. *What effect has the Covid Subsidy Fraud Investigations had on Wage Benefit Fraud Investigations.*

Regarding question three of your request, please see **Table One** below.

Table One: The number of benefit fraud investigations that are unassigned as at 30 June 2020, 30 June 2021, and 31 March 2022

As at date	Number of investigations
30 June 2020	492
30 June 2021	1,413

31 March 2022	2,427
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Notes for Table One:

- This data excludes Internal Fraud.
- A benefit fraud case may involve more than one person.
- To protect confidentiality the Ministry of Social Development uses processes to make it difficult to identify an individual person or entity from published data.
- These data tables have had random rounding to base three applied to all cell counts in the table.
- 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.

As at 31 March 2022, there were 2,427 benefit fraud investigations recorded in the Ministry's investigation management system as 'unassigned', meaning it is waiting to be assigned to an Investigator.

The Ministry notes that around 1,000 benefit fraud investigations were paused in 2020 to allow a full focus on wage subsidy investigations, except where investigations and prosecutions were at critical stages. However, the Ministry continued to follow up benefit fraud allegations through early intervention and facilitation responses, as resources allowed.

Since early 2021, the Ministry has been transitioning staff back to benefit investigations as Wage Subsidy integrity work and investigations are concluded. This includes reassessing those benefit investigations that were paused so that they can be progressed.

With each new wage subsidy, however, the Ministry had to temporarily shift resources to support pre-payment integrity checks and reviews to help ensure these payments were made quickly and to those that were eligible.

As standard practice the Ministry continually reassesses and reprioritises work to ensure that our investigative resources are allocated to the highest priority cases.

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. 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, 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 black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

George Van Ooyen
Group General Manager
Client Service Support