



14 August 2025

Tēnā koe

Official Information Act request

Thank you for your email of 16 June 2025 requesting information about the Ministry's COVID-19 Vaccination Policy.

I have considered your request under the Official Information Act 1982 (the Act). Please find my decision on each part of your request set out separately below. Some sections of your request are grouped together and answered in a different order for clarity.

- *On what date(s) were the termination notices rescinded for affected personnel? By what means were those terminations rescinded (e.g. email, letter, verbal communication, etc)?*
- *On what date did MSD formally decide to rescind the termination notices? Please provide a timeline of internal decisions or communications that led to this outcome.*

During March 2022, new information and guidance was made available by the Public Service Commission (Te Kawa Mataaho) and the Ministry of Business, Innovation and Employment on COVID-19 Vaccination policies. Additionally, there was new case law (*Yardley v Minister for Workplace Relations and Safety*) and a change in the Government's COVID-19 Traffic Light System.

On 1 April 2022, based on this new guidance, the Ministry communicated the decision to rescind all notices of termination that had previously been provided to affected staff on 8 March 2022. This message was emailed to staff and also communicated via the Ministry's intranet, Doogle, to all staff members.

- *Were any external parties (e.g. Ministers, the Public Service Commission, unions, or legal representatives) involved in discussions leading to the rescindments? If so, please identify them and the nature of their involvement.*

- *Was legal advice sought by MSD before rescinding the terminations? If so, on what date was that advice received, and from whom (e.g. Crown Law, external counsel)?*

As noted above, the Ministry was guided by the Public Service Commission and discussed options with other public services agencies.

We also liaised with our legal providers and with our union partners. The Ministry was in constant contact with its external legal advisors during this period. It took advice from both Buddle Findlay and Samantha Turner, Barrister.

- *Did MSD issue any internal guidance or policy outlining the process for implementing vaccine mandate-related terminations? If so, please provide a copy of that policy.*
- *Has MSD updated or revised its personnel policies since the termination notices were rescinded? If so, please provide the current policy and indicate the date changes were made.*

No specific policy or guidance was issued other than the COVID-19 Vaccination Policy itself. This policy is published on the Ministry's website at the following link: www.msd.govt.nz/documents/about-msd-and-our-work/covid-19/msd-covid-19-vaccination-policy.pdf.

The Ministry has also previously released our COVID-19 Vaccination Policy consultation documents under the Act. These are available at the following links:

- OIA Response Letter: www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/official-information-responses/2022/march/24-03-2022-information-relating-to-covid-19-vaccination-policy-including-impacts-for-staff-members.pdf
- Ministry's internal policy on assessing Health Safety and Security risks: www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/official-information-responses/2022/march/24-03-2022-information-relating-to-covid-19-vaccination-policy-including-impacts-for-staff-members-appendix-1-.pdf
- Vaccination Policy Consultation Decision Document dated 16 December 2021: www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/official-information-responses/2022/march/24-03-2022-information-relating-to-covid-19-vaccination-policy-including-impacts-for-staff-members-appendix-2-.pdf.

Terminations were guided by the Ministry's Disciplinary Policy which already existed prior to the implementation of the COVID-19 Vaccination Policy. This is attached as **Appendix One**.

The Ministry has updated several personnel policies since 2020. However, none of these changes are a result of the COVID-19 Vaccination Policy and process.

- *How many affected personnel remained engaged at MSD, including those whose termination notices were rescinded before their engagement ended?*

Between 17 and 18 February 2022, the Ministry issued 215 preliminary decisions to terminate to affected staff. Following a period of further discussions with

employees, approximately 150 decisions to terminate were issued on 8 March 2022. On 1 April 2022, based on the new guidance noted above, the Ministry rescinded all notices of termination. As such, no employees working for the Ministry on 1 April 2022 were terminated for breaching the COVID-19 Vaccination Policy.

There were many outcomes for staff outside of termination. Of the 150 employees mentioned, some staff chose to:

- vaccinate and had their notices rescinded
- leave during the notice period (notice in lieu) and prior notices being rescinded
- retire
- subsequently return to work at the Ministry after having left
- carry on working at the Ministry after their notice was rescinded.

Of the approximately 150 employees who received a notice of termination, there were 43 that left during the notice period, electing to take payment in lieu of notice. Because they had already left and were no longer a Ministry employee on 1 April 2022, they did not have the notice to terminate rescinded. Of the 43:

- 3 requested to return to work (agreed to by the Ministry and their service was treated as continuous)
- 5 requested to retire (agreed to by the Ministry and their reason for departing was recorded as 'retirement').
- 35 neither retired nor returned to work for the Ministry.

As such, 110 employees who received notices of termination remained with the Ministry.

- *How many affected personnel left MSD after receiving a termination notice (regardless of whether they later reached settlement or reinstatement)?*
- *How many of the affected personnel were working in each operational area or departmental function (e.g. case management, IT, finance, HR, etc)? Please provide this disaggregated by job title or function to the extent reasonably practicable.*

There were a total of 80 employees who left the Ministry, inclusive of the 43 noted above. None of these employees were reinstated. These 80 employees were from the following branches of the Ministry:

- 72 from Service Delivery
- 4 from People and Capability
- 2 from Strategy and Insights
- 2 from Organisational Assurance and Communication.

Further information on the branches of the Ministry is available on our website at the following link: www.msd.govt.nz/about-msd-and-our-work/about-msd/our-structure/index.html.

- *How many of the affected personnel were offered alternative positions, roles, or accommodations (e.g. remote work, redeployment, or other*

adjustments) as an alternative to termination? Please indicate whether such offers were made before or after termination notices were issued.

All unvaccinated staff were afforded the opportunity to work from home temporarily while an outcome was reached with the COVID-19 Vaccination Policy. As part of this process, individuals also worked with their managers to determine with an alternative arrangement could be accommodated.

Some remained working from home post 1 April 2022 while the Vaccination Policy was being reviewed. On 14 July 2022, the Ministry announced that it would move to an "encourage but not require" policy around vaccination from 1 September 2022.

- *How many non-employee personnel (e.g. contractors, consultants, fixed-term or temp agency staff) were subject to COVID-19 vaccine mandates or termination notices by MSD? Were those termination notices rescinded?*

Three contractors finished their contracts early due to the Ministry's COVID-19 Vaccination Policy.

- *What was the total amount paid out by MSD to resolve matters with these affected personnel, disaggregated (as far as reasonably practicable) into categories, including:*
 - *back-pay*
 - *settlements*
 - *ex gratia payments*
 - *sick leave or annual leave entitlements paid out*
 - *any other categories of compensation or financial redress*
- *Please also provide any contextual information necessary to interpret the figures (e.g. timeframes of payments, possible overlap between categories, or explanatory notes on classification methods used).*

The Ministry settled grievances with 98 employees paying:

- \$1,001,000 gross equivalent of wages
- Reinstating 301 days annual leave and 139.5 days sick leave

No annual leave or sick leave was paid out.

- *Were any MSD staff (e.g. HR, legal, or executive personnel) formally held accountable or subject to any consequences in any relation to the decisions that led to the terminations and their subsequent reversal?*
- *If so, please specify the nature of any:*
 - *performance reviews*
 - *disciplinary action*
 - *internal investigations*
 - *role changes or demotions*
 - *resignations (voluntary or requested)*
 - *other forms of internal accountability or corrective response.*

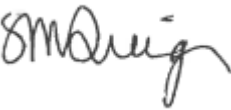
No Ministry staff were subject to any investigation or consequences following the implementation and amendment of the COVID-19 Vaccination Policy.

I will be publishing this decision letter, with your personal details deleted, on the Ministry's website in due course.

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 my decision on your request, 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

pp. 

Anna Graham
General Manager
Ministerial and Executive Services

Home » Resources & Tools » Helping Staff » Procedures and Manuals » **Formal Disciplinary Process**

Formal Disciplinary Process

This page outlines the Ministry's formal disciplinary process

On this Page:

Introduction

If there is a performance problem that has not been resolved through the normal process for managing performance, or if there is an issue of alleged misconduct, it will be necessary to commence the formal disciplinary procedures.

Summary of Staff Member's Rights

The following is a summary of the principles that apply when dealing with any disciplinary issue. These principles are also contained in the Ministry's collective and individual employment agreements.

The staff member is to be advised of their right to representation and/or support person of their choice

The staff member is to be informed of the issue in question and be given a reasonable opportunity to provide an explanation

Any corrective action required together with a reasonable period of time to improve performance or change the conduct will be advised.

Where this is a performance issue consideration should be given to appropriate alternative work, coaching and counselling.

An appropriate investigation will be undertaken before any substantive action is taken

Depending on the seriousness of the issue, a verbal warning will normally precede a written warning

Any disciplinary action is to be recorded in writing, signed by the staff member and placed on their personal file

A written warning will specify the duration of the warning and will be removed from the staff member's personal file on its expiry date

In cases of alleged serious misconduct the staff member may be suspended on pay while an investigation is undertaken

Where an staff member feels that they have been aggrieved by the Ministry of Social Development, they are to be advised of their right to pursue a personal grievance.

Preliminary Investigation

When an issue of possible misconduct is brought to a manager's attention, the manager will make initial enquiries to establish that there is/may be some substance to the issue.

Once this has been done the manager will decide whether the issue requires further investigation. Where appropriate it may be that the matter can be resolved before it becomes a disciplinary matter.

Investigation

At all stages of an investigation a manager will keep written records that will be used to reach a decision if this is necessary at some later stage.

A full and fair investigation of the situation must be carried out to determine the facts and circumstances associated with the disciplinary matter.

An employment relationship is based on trust and confidence and there is a duty on a manager carrying out an enquiry preceding disciplinary action, to do so in a fair and reasonable manner, considering both sides of the issue.

During the investigation

A manager may find that the problem can be resolved before it becomes a disciplinary issue

It should be determined if there is sufficient evidence for the investigation to continue

Where there is sufficient evidence, the staff member will be advised that the investigation is being done and what it is about

A manager should interview the staff member as early as possible in the investigation process

A manager should provide the staff member with a real opportunity to explain their point of view

A manager should not allow bias to affect the investigation or predetermine the issues or outcomes

A manager should consider the problem from the staff member's perspective and determine the extent of the problem and possible causes of it

A manager should use only information that is relevant to the case, and

A manager should base decisions on fact alone

Staff Member Interviews

An staff member should be given reasonable advance notice of an interview. However, in cases of a serious nature there may be a need to take quick action, e.g. where there is a security risk.

In all cases the staff member should be told in advance why they are being interviewed and what the interview will be about.

The manager must remind the staff member of their right to representation and all reasonable attempts must be made to ensure that the staff member has the opportunity to have their representative present. Managers should also have support present.

Managers must keep a detailed record of the meeting. If any agreement is reached, or any admissions/concessions made it is important that these are recorded for later reference.

In the meeting, the manager must clearly state the allegation and the Ministry's position on it. The staff member must be given every opportunity to respond and put their case forward. This may involve another meeting.

Possible courses of action, suggestions and alternatives may be discussed.

Content owner: [Human Resources](#) Last updated: 13 March 2020