



**MINISTRY OF SOCIAL  
DEVELOPMENT**

TE MANATŪ WHAKAHIATO ORA

Tēnā koe

On 7 September 2021, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information regarding benefit fraud for the financial years financial years 2000/01, 2005/06, 2010/11, 2015/16, 2018/19, 2019/00 and 2020/221:

1. *The number of investigate staff*
2. *The number of prosecution staff*
3. *The number of complaints received*
4. *The number of complaints that become subject to formal investigations*
5. *The number of complaints that led to prosecutions*
6. *The number of complaints that led to convictions*
7. *Convictions broken down by ethnicity*
8. *The total value of offences prosecuted*
9. *How much money was recovered?*
10. *The budget of the investigative unit*
11. *The budget of the prosecution unit*
12. *The amount spent on external legal counsel I would also like some background on how your process works - for example, I know the SFO has a two-stage investigation process. Is that the same at the MSD?*
13. *How are complaints assessed?*

Please note that for questions one, three, four, five, six, seven and eight the Ministry is not able to provide you with all the information for the financial years 2000/01, 2005/06 and 2010/11. This is due to the way in which fraud investigation records were held and stored at those times, and other system changes. The Ministry introduced a new Investigation Management System (IMS) in 2011.

In order to provide you with this information, Ministry staff would have to manually review and find files, if still held. As such, I refuse your request under section 18(f) of the Act. The greater public interest is in the effective and efficient administration of the public service.

I have considered whether the Ministry would be able to respond to your request given extra time, or the ability to charge for the information requested. I have concluded that, in either case, the Ministry's ability to undertake its work would still be prejudiced.

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

*1. The number of investigate staff*

Please find **Table One**: The number of Investigators (Fraud Intervention Services) between 1 July 2010 and 30 June 2021 attached in the **Appendix** below.

*2. The number of prosecution staff*

Please find **Table Two**: The number of prosecution staff between 1 July 2000 and 30 June 2021 attached in the **Appendix** below.

Please note that the Ministry's financial year commences on 1 July and ends on 30 June. For the following years 2015/16 to 2020/21, the Ministry did not have lawyers who were employed solely to do prosecution work. Instead, a number of lawyers were granted a Prosecutor Classification in accordance with the Solicitor-General's guidance, which can be found online at the following link: [www.crownlaw.govt.nz/assets/Uploads/4276913-Prosecutor-Classification-of-In-House-Lawyers-June-2018.pdf](http://www.crownlaw.govt.nz/assets/Uploads/4276913-Prosecutor-Classification-of-In-House-Lawyers-June-2018.pdf).

This classification allowed those lawyers to carry out prosecution work, if required to do so. Note that in some instances these lawyers may have done minimal or no prosecution work in any given year due to other work commitments.

*3. The number of complaints received*

Please find **Table Three**: Number of allegations received by the Ministry between 1 July 2011 and 30 June 2021 attached in the **Appendix** below.

*4. The number of complaints that become subject to formal investigations*

Please find **Table Four**: Number of early intervention, facilitation and investigation responses completed between 1 July 2011 and 30 June 2021 attached in the **Appendix** below.

Benefit recipients are obliged to advise the Ministry of any change in circumstances that might affect their entitlement to a benefit. Allegations of benefit and social housing fraud can be made by members of the public, or by Ministry staff undertaking reviews of a client's benefit entitlement, and these are assessed for the appropriate level of response.

Since 2015, the Ministry has been strengthening its fraud prevention focus. This saw the introduction of new non-investigative approaches to responding to lower risk allegations of fraud from 2018, and the establishment of a prosecution panel to support decision making in serious fraud cases where prosecution is recommended.

The Ministry's overall approach is to intervene early when concerns are raised, to make it easy for clients to do the right thing and avoid unnecessary overpayments and debt while still responding appropriately to serious fraud. The Ministry has a three-tier graduated model to respond to allegations of benefit and social housing fraud:

- early intervention – a conversation with the client to discuss any integrity issues raised, confirm obligations, and adjust entitlements where appropriate.

- facilitation – working more intensively with a client to assess their situation against their entitlements and adjust these entitlements where necessary. This could mean an overpayment for a client in some situations.
- investigation – gathering information and acting on serious client integrity issues, which could result in an overpayment and in the most serious cases prosecution. Prosecutions are considered in line with the Solicitor General's guidelines, taking into account the full circumstances of each individual case.

This approach has been endorsed by the Welfare Expert Advisory Group report.

Overall, the number of cases responded to across the Ministry's three-tier model has remained stable over the last five years. A greater proportion are now responded to without investigation or prosecution.

Over the 2019/20 and 2020/21 financial years, investigation and prosecution numbers have been impacted by responding to the Privacy Commissioner's inquiry, which meant pausing and reassessing investigations and prosecutions underway in light of the inquiry's findings, and by the need to support the COVID-19 response, which includes Wage Subsidy investigations.

#### *5. The number of complaints that led to prosecutions*

Please find **Table Five:** Number of completed prosecutions between 1 July 2011 and 30 June 2021 attached in the **Appendix** below.

#### *6. The number of complaints that led to convictions*

Please find **Table Six:** Number of successful prosecutions between 1 July 2011 and 30 June 2021 attached in the **Appendix** below.

#### *7. Convictions broken down by ethnicity*

Please find **Table Seven:** Number of successful prosecutions, broken down by ethnicity between 1 July 2014 and 30 June 2021 attached in the **Appendix** below.

#### *8. The total value of the offences prosecuted*

Please find **Table Eight:** Overpayment amount for successful prosecutions between 1 July 2011 and 30 June 2021 attached in the **Appendix** below.

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. The Ministry has a dedicated team of specialist fraud investigators throughout the country and an Intelligence Unit that identifies emerging fraud risks and trends. The Ministry works with other government agencies to identify and reduce incidents of fraud and investigate cases which arise through allegations from members of the public.

The Ministry uses the Solicitor-General's Prosecution Guidelines as the main reference point when considering a prosecution. 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.



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.

The Fraud Prosecution Review Panel was established in May 2018 and 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 gender or 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".

*9. How much money was recovered?*

I am refusing this part of your request, as the recovery of debt specific to a prosecution is not able to be reported on due to how debt is recorded and managed in our systems. Therefore, I refuse this aspect of your request under section 18(f) of the Act. The greater public interest is in the effective and efficient administration of the public service.

I have considered whether the Ministry would be able to respond to your request given extra time, or the ability to charge for the information requested. I have concluded that, in either case, the Ministry's ability to undertake its work would still be prejudiced.

*10. The budget of the investigative unit*

*11. The budget of the prosecution unit*

Please find **Table Nine:** The budget of Fraud Intervention Services between 1 July 2000 and 30 June 2021 attached in the **Appendix** below.

*12. The amount spent on external legal counsel I would also like some background on how your process works - for example, I know the SFO has a two-stage investigation process. Is that the same at the MSD?*

Please find **Table Ten:** The amount spent on external legal fees between 1 July 2000 and 30 June 2021 attached in the **Appendix** below.

Note that towards the end of 2018/19 and during 2019/20 significant external legal fees were incurred by the Ministry in response to a number of challenges brought by defence counsel to the admissibility of evidence relied upon by the Ministry. These challenges reflected findings made by the Privacy Commissioner in his inquiry into the Ministry's use of Section 11 of the Social Security Act 1964, which can be found online at the following link: [www.msd.govt.nz/about-msd-and-our-work/newsroom/media-releases/2019/msd-accepts-privacy-commissioners-recommendations.html](http://www.msd.govt.nz/about-msd-and-our-work/newsroom/media-releases/2019/msd-accepts-privacy-commissioners-recommendations.html).

Regarding the financial year 2000/01, releasing the amount spent on external legal fees for benefit fraud prosecutions for this financial year is refused under section 18(e) of the Act on the basis that the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found. The Ministry was not able to retrieve financial information relating to this year.

Furthermore for the financial years 2005/06 and 2010/11 releasing the amount spent on external legal fees for benefit fraud prosecutions for these two financial years is refused under section 18(f) of the Act on the basis that the information requested cannot be made available without substantial collation or research. From the financial information the Ministry holds, it is not clear what relates to benefit fraud prosecutions and what relates to other matters where external lawyer fees were incurred. This is because the information is historic and intermingled.

*13. How are complaints assessed?*

Please refer to the contextual information provided in response to questions 3 and 4.

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 and attachments 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](mailto:OIA_Requests@msd.govt.nz).

If you are not satisfied with this response regarding benefit fraud, 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](http://www.ombudsman.parliament.nz) or 0800 802 602.

Ngā mihi nui

A handwritten signature in blue ink, appearing to be 'WH', written over a light blue circular stamp.

Warren Hudson  
**General Manager, Integrity and Debt**

**Appendix:**

**Table One: The number of Investigators (Fraud Intervention Services) between 1 July 2000 and 30 June 2021**

<b>Financial year</b>	<b>Number of staff</b>
<b>2000/2001</b>	-
<b>2005/2006</b>	-
<b>2010/2011</b>	95
<b>2015/2016</b>	104
<b>2018/2019</b>	97
<b>2019/2020</b>	98
<b>2020/2021</b>	97

**Table Two: The number of prosecution staff between 1 July 2000 and 30 June 2021**

<b>Financial year</b>	<b>Number of staff</b>
<b>2000/2001</b>	10
<b>2005/2006</b>	11
<b>2010/2011</b>	11
<b>2015/2016</b>	17
<b>2018/2019</b>	12
<b>2019/2020</b>	12
<b>2020/2021</b>	13

**Table Three: Number of allegations received by the Ministry between 1 July 2011 and 30 June 2021**

<b>Financial year</b>	<b>Number of public allegations</b>
<b>2011/2012</b>	14,460
<b>2012/2013</b>	16,008
<b>2013/2014</b>	14,736
<b>2014/2015</b>	11,472
<b>2015/2016</b>	8,766
<b>2016/2017</b>	8,223
<b>2017/2018</b>	9,021
<b>2018/2019</b>	8,499
<b>2019/2020</b>	7,836
<b>2020/2021</b>	7,410

**Table Four: Number of early intervention, facilitation investigation responses completed between 1 July 2011 and 30 June 2021**

<b>Financial year</b>	<b>Number of early intervention responses</b>	<b>Number of facilitation responses</b>	<b>Number of investigations</b>
<b>2011/2012</b>	-	-	10,737
<b>2012/2013</b>	-	-	10,032
<b>2013/2014</b>	-	-	4,557
<b>2014/2015</b>	-	-	5,334
<b>2015/2016</b>	-	-	5,325
<b>2016/2017</b>	-	-	4,854
<b>2017/2018</b>	-	-	4,755
<b>2018/2019</b>	1,827	1,335	1,761
<b>2019/2020</b>	2,370	1,254	1,089
<b>2020/2021</b>	2,451	1,227	654

**Table Five: Number of completed prosecutions between 1 July 2011 and 30 June 2021**

<b>Financial year</b>	<b>Number of completed prosecutions</b>
<b>2011/2012</b>	879
<b>2012/2013</b>	957
<b>2013/2014</b>	888
<b>2014/2015</b>	951
<b>2015/2016</b>	615
<b>2016/2017</b>	450
<b>2017/2018</b>	291
<b>2018/2019</b>	126
<b>2019/2020</b>	66
<b>2020/2021</b>	60

**Table Six: Number of successful prosecutions between 1 July 2011 and 30 June 2021**

<b>Financial year</b>	<b>Number of successful prosecutions</b>
<b>2011/2012</b>	837
<b>2012/2013</b>	906
<b>2013/2014</b>	864
<b>2014/2015</b>	921

Financial year	Number of successful prosecutions
2015/2016	594
2016/2017	432
2017/2018	276
2018/2019	120
2019/2020	66
2020/2021	54

**Table Seven: Number of successful prosecutions, broken down by ethnicity between 1 July 2014 and 30 June 2021**

Financial year	Ethnic group					Total
	Māori	Pacific Peoples	NZ European	Other	Unspecified	
2014/2015	381	186	267	72	15	921
2015/2016	267	75	198	48	6	594
2016/2017	183	63	144	36	6	432
2017/2018	144	27	90	12	0	276
2018/2019	51	9	45	12	3	120
2019/2020	30	9	18	6	0	66
2020/2021	33	0	21	3	0	54

**Table Eight: Overpayment amount for successful prosecutions between 1 July 2011 and 30 June 2021**

Financial year	Overpayment amount
2011/2012	\$21.7m
2012/2013	\$31.9m
2013/2014	\$30.3m
2014/2015	\$31.2m
2015/2016	\$24.0m
2016/2017	\$19.1m
2017/2018	\$13.9m
2018/2019	\$8.4m
2019/2020	\$3.7m
2020/2021	\$3.8m



**Table Nine: The budget of Fraud Intervention Services between 1 July 2000 and 30 June 2021**

Financial year	Amount
2000/2001	\$23.2m
2005/2006	\$24.6m
2010/2011	\$24.5m
2015/2016	\$24.2m
2018/2019	\$24.4m
2019/2020	\$24.0m
2020/2021	\$25.4m

**Table Ten: The amount spent on external legal fees between 1 July 2000 and 30 June 2021**

Financial year	Amount
2000/2001	-
2005/2006	-
2010/2011	-
2015/2016	\$27,175.87
2018/2019	\$60,328.47
2019/2020	\$171,254.59
2020/2021	\$65,099.48

**Notes for Tables:**

- The Ministry's financial year commences on 1 July and ends on 30 June.
- For Table Two, Internal Fraud data is excluded from 2014/2015 financial year onwards.
- For the other tables, Internal Fraud data is excluded from 2013/2014 financial year onwards.
- A client can be investigated more than once in the same year under different investigations.
- A prosecution concerns only one person. But the same person can be prosecuted twice in a year.
- A prosecution is successful if there is at least one sentence or one of the court findings is 'S106 Discharge without conviction' under the Sentencing Act 2002.
- Prosecutions completed do not directly relate to allegations received or investigations completed in the same year as a prosecution may not be completed in the same year that the allegation was received or the investigation was completed.
- Ethnicity data is self-identified and multiple ethnicities may be chosen by an individual as fits their preference or self-concept.
- Multiple selected ethnicities are then prioritised into a hierarchy.
- The Māori ethnicity has the highest priority in this hierarchy, followed by Pacific peoples.
- NZ European has the lowest priority. This is to ensure that smaller and politically significant ethnic groups do not get overwhelmed by the larger ethnic groups.
- A single ethnicity is assigned to an individual based on this hierarchy.
- Ethnic groups do not currently align with Statistics New Zealand ethnicity groupings.
- To protect confidentiality the Ministry 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.
- 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.