



18 March 2024

Our reference 2324-1540

Jean Roberts

fyi-request-25514-0439b880@requests.fyi.org.nz

Tēnā koe Jean

Thank you for writing to the Ministry of Business, Innovation and Employment (MBIE) on 25 January 2024, to request the following, under the Official Information Act 1982 (the OIA):

- 1- *The number of Personal Grievances raised [since January 2023] in your Ministry, and categories (for example: Bullying, Unjustifiably disadvantaged, constructive dismissal etc)*
- 2- *(from Jan 2023 to present) The number of Mediations that took place*
- 3- *(from Jan 2023 to present) The number of successful mediation[s]*
- 4- *(from Jan 2023 to present) Of the PGs raised, how many went to [the] Employment Relations Authority ?*
- 5- *(from Jan 2023 to present) How many cases were found against the Ministry ?*
- 6- *(from Jan 2023 to present) How much money – in total- [was] paid to settle these cases / or pay the fee required by Employment Relations Act (not necessarily meaning those that went to ERA) broken down by year?*
- 7- *How much money was covered by the Ministry's liability insurance?*
- 8- *(in the last 3 years) How much money – in total – [was] paid to external Legal consultants to defend the cases filed in [the] ERA or to prepare the responses to the case broken down by year?*
- 9- *(in the last 3 years) How many ERA cases resulted in [the] reinstatement of [an] employee broken down by year*
- 10- *If a case is found against the Ministry (the Ministry lost), what are the consequences to the Manager involved in the incident?*

MBIE is committed to providing a safe work environment and respectful work culture where the wellbeing of our people is of the utmost importance. Every person has ready access to the complaint and investigation process if they feel that they have been bullied or harassed, and we work to address behavioural issues as soon as practicable.

MBIE works to resolve any employment relationship problems quickly, appropriately and through a process that is fair.

Our Code of Conduct helps us to use sound judgement when making decisions and taking actions. It aligns with employment agreements, employment legislation, MBIE policies and Te Kawa Mataaho Public Service Commission Standards of Integrity and Conduct. We've published our Code of Conduct online, and you can view it at <https://www.mbie.govt.nz/about/who-we-are/code-of-conduct/>.

All MBIE staff, regardless of their role, are expected to be familiar with MBIE's Code of Conduct and understand their obligations under it. New employees are required to sign a copy when they join.

My responses to each part of your request begin overleaf.



Question 1 The number and categories of personal grievances at MBIE, January 2023 to present

Between 1 January 2023 and 25 January 2024, there were 13 personal grievances received by MBIE.

I am refusing your request for a breakdown of grievances by type under the administrative grounds in section 18(e) of the OIA, as MBIE does not use the categories noted in your request to classify personal grievances.

**Question 2 the number of mediations, 1 January 2023 to 25 January 2024; and
Question 3 the number of successful mediations, 1 January 2023 to 25 January 2024**

Regrettably, we are still in the process of finalising the data for this question.

Because of this, this letter provides my decision on this question, as required under section 15(1) of the OIA. This part of your request has been granted, and we will send you the finalised information in the coming days.

No information has been redacted or will be withheld from this data.

Question 4 The number of personal grievances that went to the Employment Relations Authority

Question 5 The number of cases found against MBIE

Question 6 The total amount of money paid to settle cases, broken down by year; and

Question 9 Number of cases involving reinstatement by year

One case was determined by the Employment Relations Authority (the ERA) from 1 January 2023 to the date of your request. The case was found against the Ministry and resulted in reinstatement. This is also the only case within the past three years to have resulted in reinstatement.

The ERA ordered the payment of 12 months' lost remuneration under s128 and \$25,000 as compensation for humiliation, loss of dignity, and injury to feelings under s123(1)(c)(i) of the Employment Relations Act.

MBIE is also likely to have contributed to the other party's legal costs, in the usual manner of the Employment Relations Authority.

Some of the information you've requested is already publicly available. Decisions made by the Employment Relations Authority are published online. Decisions relating to MBIE can be retrieved via a keyword search from the front page, at:

https://determinations.era.govt.nz/determinations/DeterminationSearchForm?Parties=&JurisdictionTitle=&Keywords=ministry+business+innovation+employment&JurisdictionIdentifier=&JudgmentYear=&StatutoryOfficer=&action_doSearch=

Please note, some of the decisions published by the ERA were brought to it by MBIE in its capacity as the organisation responsible for the Labour Inspectorate, which ensures compliance with employment standards by identifying and investigating breaches and taking enforcement action, and are not related to MBIE staff grievances.

Question 7 The amount covered by MBIE's liability insurance

I am refusing this question under section 18(e) of the OIA, as the requested information doesn't exist. MBIE does not use its insurance to insure itself for the cost of personal grievance settlements.

Question 8 The amount paid to external legal consultants

In my prior response, I advised that this information could not be collated from MBIE's financial management system, without a significant amount of work required to compile and inspect individual invoices. This remains the case, and I am refusing this part of your request under section 18(f) of the OIA.

The table below shows an indicative spend for the 2021/22, 2022/23 and 2023/24 tax years. Because these numbers are approximate, and include costs such as for legal advice prior to an ERA hearing, I have rounded these figures to the nearest \$5,000.

Period	Spend
1 April 2021 – 31 March 2022	\$20,000
1 April 2022 – 31 March 2023	\$145,000
1 April 2023 to 30 September 2023	\$40,000

Question 10 Consequences for managers involved in incidents, where a case is found against MBIE

If a case is found against MBIE, any outcomes for anyone involved are managed on a case-by-case basis, considering all the circumstances.

MBIE aims to provide a safe and enjoyable work environment for all workers and requires high standards of personal behaviour consistent with its Code of Conduct.

MBIE's Workplace Bullying and Harassment policy requires our people leaders to:

- ensure a safe working environment and assist with any complaints or investigations in a sensitive, competent and fair manner
- Ensure their behaviour isn't harmful to others
- Ensure new staff know where to find the relevant policy documents and procedures to manage workplace bullying and harassment
- Promote awareness of our Workplace Bullying and Harassment policy, particularly as part of new staff orientation.

Where any staff member fails to meet these expectations, this would be treated as a conduct issue and managed in line with relevant internal policies and procedures through our Code of Conduct. You can view MBIE's Code of Conduct on our website, at <https://www.mbie.govt.nz/about/who-we-are/code-of-conduct/>.

Thank you again for writing to MBIE. Under section 28 of the OIA, you have the right to refer my response to an Ombudsman for review. You can find more information about how to do this by calling 0800 802 602, or by emailing info@ombudsman.parliament.nz.

Nāku noa, nā



Jennifer Nathan
Chief People Officer
People and Culture
Corporate Services, Finance and Enablement