



21 November 2023

Our reference: DOIA 2324-0881

Jean Roberts

fyi-request-24479-a878a38b@requests.fyi.org.nz

Tēnā koe Jean

Thank you for writing to the Ministry of Business, Innovation and Employment (MBIE) on 20 October 2023, to request the following, under the Official Information Act 1982 (the OIA):

- 1- *The number of Personal Grievances raised in your Ministry, in the last 3 years broken down by year, and categories (for example: Bullying, Unjustifiably disadvantaged, constructive dismissal etc)*
- 2- *(in the last 3 years) The number of Mediation that took place broken down by year*
- 3- *(in the last 3 years) The number of successful mediation broken down by year*
- 4- *(in the last 3 years) Of the PGs raised, how many went to Employment Relations Authority broken down by year?*
- 5- *(in the last 3 years) How many cases were found against the Ministry broken down by year?*
- 6- *(in the last 3 years) How much money – in total- were paid to settle these cases / or pay the fee required by 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 – were paid to external Legal consultants to defend the cases filed in 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 reinstatement of 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 **Number of Personal Grievances**

The number of personal grievances by financial year is listed below:

Financial year	Number of personal grievances
2020/21	11
2021/22	17
2022/23	15

I am refusing your request for a breakdown of grievances by type under section 18(e) of the OIA, as MBIE does not categorise grievances according to the parameters of your request. For us to provide this information, we would need to define individual categories by the behaviours that would fall into each and then retrospectively determine which personal grievances fit these categories.

Question 2 **Number of mediations per year**

Question 3 **Number of successful mediations per year**

Please refer to the table below.

Financial year	Total number of mediations	Number of settled mediations
2020/2021	13	7
2021/2022	6	4
2022/2023	11	7

When reading this information, please note:

- We don't have a measure of 'successful' mediations, so the number being provided to you is that of the number of settled mediations per year.
- The difference between the total number of mediations and the number of settled mediation is accounted for by mediations that are either not yet settled, were withdrawn, or are partially settled.

Question 4 **Number of PGs that went to the Employment Relations Authority** (the ERA)

Question 5 **Number of cases found against MBIE by year**

Question 6 **Amount paid to settle cases or fees required by the ERA;** and

Question 9 **Number of ERA cases resulting in reinstatement**

One case was determined by the Employment Relations Authority within the last 3 financial years. This was in the 2022/23 financial year. This case was found against the Ministry and did not result in reinstatement.

The authority ordered the payment of 3 months' wages under s128 and \$20,000 as compensation for humiliation, loss of dignity and injury to feelings under s 123 (1)(c)(i) of the Employment Relations Act.

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

For the purposes of your own research, 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 Amount covered by MBIE 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 Money paid to external legal consultants

I am refusing this part of your request under section 18(f) of the OIA, due to the substantial collation required to provide a response. To provide a response to this question, we would need to open and examine a significant number of invoices to determine which of these were spent specifically on the purchase of external legal advice solely to support MBIE at the employment relations authority.

Question 10 Consequences to the manager involved in any incident arising from a lost case

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.

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 about how to do this by emailing info@ombudsman.parliament.nz or by calling 0800 802 602.

Nāku noa, na



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