

20 NOV 2019

Sue Grey  
[Fyi-request-11395-096cf716@requests.fyi.org.nz](mailto:Fyi-request-11395-096cf716@requests.fyi.org.nz)

Dear Sue

Thank you for your email of 15 March 2019 to Hon Iain Lees-Galloway, Minister for Workplace Relations and Safety, regarding your request under the Official Information Act 1982 (the Act), for information relating to WorkSafe New Zealand's investigation of the recent chemical exposure incident in Christchurch.

As you are aware, the Minister has transferred your request to WorkSafe for response.

The answers to your questions are as follows:

*1) what resources has worksafe allocated to date to investigate and/ or report on the poisoning and hospitalisation of the pest control services employee at Bromley who was reported to have been hospitalised in a coma for over two weeks before the incident was reported? Please provide copies of all information relevant to this.*

The resources allocated by WorkSafe to date have been as follows:

- The initial response to the incident was coordinated by a chief inspector, an investigations manager, and WorkSafe's communications and hazardous substances teams.
- Two inspectors attended the site to confirm the accuracy of the information received and to make an initial assessment.
- Following a briefing with Fire and Emergency New Zealand, which had control of the incident site for decontamination purposes, seven WorkSafe inspectors were present at the scene in a joint operation. They were assisted by three officials from the Institute of Environmental Science and Research (for scene entry and sampling), and an observer from the Environmental Protection Authority (EPA).
- A dedicated Investigating Inspector has been working on this case since the incident. The Inspector is supported by an additional Inspector and an Investigations Manager, and also has the ability to seek technical in-house guidance when required.

I am unable to supply copies of the information you have requested in regard to the resourcing of this incident because WorkSafe's investigation is still in progress. Accordingly, I am withholding the information under section 6(c) of the Act, as its release would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences.

*2) what if any ministerial overview has there been about the resources allocated to this investigation? Please provide copies of all relevant correspondence.*

The resources allocated by WorkSafe were at the discretion of the Chief Inspector. There has been no Ministerial overview.

*3) how many chemical poisoning incidents have been investigated by Worksafe in the last 5 years? Please provide copies of each such report.*

WorkSafe has no specific method to identify investigation files relating to occupational chemical poisoning, and, therefore, providing this information will entail a substantial amount of collation and research. A keyword search of our data would be required, with each item then needing to be manually scoped by a suitably qualified person to see if it met the criteria. It is my view that, even if you did agree to pay any charges imposed by WorkSafe under section 15 of the Act for carrying out this work, the amount of resource required is not acceptable and WorkSafe could not commit the substantial amount of staff time required for this activity.

I am therefore refusing this part of your request under section 18(f) of the Act, on the grounds that to make the information available would entail substantial collation and research.

*4) when is the Worksafe report on this incident expected to be completed, and why has not been given more resources and priority being in mind the obvious serious risk to workers, to the environment and public interest*

*5) why has this investigation not been given more resources and priority? Please provide copies of any relevant internal and or external correspondence about this*

WorkSafe has a limited number of inspectors and this incident is one of many it needs to manage at any given time—all of which are serious and some of which sadly involve fatalities. Our investigation is continuing and should it result in a recommendation to prosecute, it must be completed within the statutory timeframe which expires on 28 May 2020.

The risk to the environment is minimised as the workplace is secure and under WorkSafe's control. We are confident that there is no further risk to workers and the environment unless unforeseen activity occurs.

As I explained above, I am unable to provide copies of information relating to this investigation while it is still in progress. Accordingly, I am withholding the information you have requested under section 6(c) of the Act.

*6) please provide copies of any relevant worksafe policies on investigating chemical poisoning incidents*

WorkSafe's investigation policy describes our approach to any investigation. you can access this on the WorkSafe website at the following link: <https://worksafe.govt.nz/laws-and-regulations/operational-policy-framework/regulatory-function-policies/investigations-policy>. There is no specific policy relating to chemical poisoning incidents and therefore I am refusing this part of your request under section 18(e) of the Act on the grounds that the documents alleged to contain the information requested do not exist.

*7) please provide copies of any information that is currently available to confirm the poison involved in that incident and any interim or final advice provided to help avoid any future harm to workers from incidents of this type*

As I explained above, I am unable to provide copies of information relating to this investigation

while it is still in progress. Accordingly, I am withholding the information you have requested under section 6(c) of the Act.

*8) Civil Aviation often releases interim reports or advice after an incident but before its final report is available if it identifies risks. Please provide information to show if WorkSafe takes any interim steps of its type, and if not why not*

WorkSafe does not release interim reports after a workplace incident. However, if risks or issues that should be considered by industry are identified during an investigation, WorkSafe will advise industry accordingly.

*9) please provide any reports or other information provided to you and/ or by or on behalf of you to cabinet or to other ministers about this incident and/or about risks to worker safety and/or wider public safety from 1080 poison and/or other vertebrate toxic agents, including from transport, manufacturer, storage, use and/ or disposal or waste of excess, expired or damaged 1080 or other VTAs.*

As you have not specified a timeframe in this question, I have assumed that you require information dating from the time of the chemical exposure incident in Bromley. Accordingly, WorkSafe has considered this part of your request to date from 1 June 2019.

A search of WorkSafe's records has revealed one document containing information provided to the Minister in regard to the chemical exposure incident in Bromley, and a copy of that document is attached. I have withheld some information under section 9(2)(a) of the Act, which relates to the privacy of natural persons. Under section 9(1) of the Act I do not consider that the withholding of this information is outweighed by public interest considerations in making the information available. Please note that the 'previous advice' referred to in the information was verbal.

WorkSafe did not provide the Minister, Cabinet or other Ministers on the Minister's behalf, with any reports or information about "risks to worker safety and/or wider public safety from 1080 poison and/or other vertebrate toxic agents" after 1 June 2019. I am also advised that the Minister did not provide reports or information about "this incident and/or about risks to worker safety and/or wider public safety from 1080 poison and/or other vertebrate toxic agents" to Cabinet or other Ministers after 1 June 2019.

As a result, I am refusing this part of your request under section 18(e) of the Act on the grounds that the documents alleged to contain the information requested do not exist.

*10) please provide any information about the risks and/or costs to workers and or other people and to the environment associated with the use of 1080 and other VTA poisons.*

WorkSafe's responsibilities in regard to 1080 are set out on its website at

<https://worksafe.govt.nz/about-us/news-and-media/worksafe-new-zealand-and-1080>.

WorkSafe's role is to enforce the rules relating to the use, handling and storage of hazardous substances, including 1080 and the importation of the pure form of 1080, in workplace settings. You will appreciate that WorkSafe is unable to respond to concerns or questions relating to 1080 or other vertebrate toxic agents that are outside its jurisdiction. I believe your request is more closely related to the functions of the EPA. Accordingly, I have transferred this part of your request to the EPA under section 14 of the Act, and I apologise for the delay in doing so. The EPA will respond directly to you within 20 working days of receiving our advice of the transfer.

You have the right, by way of complaint under section 28(3) of the Act, to request an investigation and review of this response by the Ombudsman. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

If you require any further information, please contact [oiia@worksafe.govt.nz](mailto:oiia@worksafe.govt.nz).

Yours sincerely

A handwritten signature in black ink, appearing to be 'S. Humphries', written in a cursive style.

Simon Humphries  
*Head of Specialist Interventions*