



1 July 2022

Ref: DOIA 2122-2264

Alex Harris

fyi-request-19555-42d19266@requests.fyi.org.nz

Dear Alex,

Thank you for your email of 1 June 2022 to the Ministry of Business, Innovation and Employment (MBIE) requesting, under the Official Information Act 1982, the following information:

“any estimate MBIE has of the overall cost of wage theft in New Zealand.”

“If there is a policy paper, briefing, or document containing that estimate, I would like a copy of the document.”

The concept of ‘wage theft’ generally describes an intentional or persistent breach of minimum standards of pay. In particular, you refer to scenarios where employers force employees to work overtime, deny overtime payment, fail to pay the minimum wage, do not pay annual leave and holiday entitlements, or make illegal deductions from pay.

Issues relating to incorrectly paid wages and holiday entitlements can be dealt with directly between an employer and employee, or with the assistance of MBIE’s Early Resolution Service and Employment Mediation Service. Alternatively, a resolution can be sought from the Employment Relations Authority or Employment Court. Unions play an important role in helping to identify and resolve issues relating to pay and other employment entitlements, sometimes directly with the employer, and sometimes with the assistance of these other institutions.

MBIE’s Labour Inspectorate is responsible for investigations into breaches of minimum employment standards, including the requirements relating to the minimum wage, holiday pay, leave entitlements and record keeping. Where necessary, the Inspectorate takes steps to ensure that workers receive their minimum entitlements via enforcement actions such as Enforceable Undertakings or Improvement Notices, and seeking penalties from the Employment Relations Authority or Employment Court.

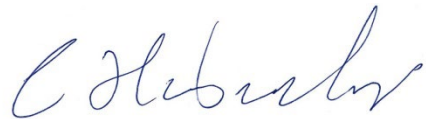
There is, in other words, a multiplicity of avenues in which incorrectly paid wages and holiday entitlements can be raised and addressed. It would not be possible for MBIE to try and record the outcome of every action taken via each of these mechanisms.

Neither would it be possible to code particular outcomes as wage theft in a way that is beyond debate. Employment disputes are often described as ‘intensively fact-specific’, and each situation is unique. Sometimes a clear bright line in terms of incorrectly paid earnings can be established, but this is not always the case. Also, the employment institutions are deliberately geared to seek voluntary and consensual resolution of issues where this is possible and appropriate. For these reasons, the fact that an employer offers or is required to make up a shortfall in wages or holidays does not necessarily mean that this sum of money should be coded as counting towards the cost of wage theft in New Zealand.

I am therefore refusing your request under section 18(e) of the *Official Information Act 1982*, as the information requested does not exist.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'C Hubscher', written in a cursive style.

Chris Hubscher
Manager, Employment Standards Policy