

27 February 2015

Attention: Shanna Reeder
fyi-request-2465-fe86efe9@requests.fyi.org.nz

Ref: OIA 0921

Dear Shanna Reeder

I refer to your email dated 3 February 2015 requesting answers to three questions about the way the Labour Inspectorate deals with recovery of moneys owed to employees.

In answer to your first question, *“What is the criteria a case must meet in order for a Labour Inspector to pursue recovery of lost wages for an individual?”*, employment legislation enables Labour Inspectors to seek arrears of wages at the Employment Relations Authority for certain breaches of employment standards. This includes minimum holiday entitlements, the minimum wage and the payment of premiums under the Wages Protection Act. Disputes relating to recovery of wages based on the interpretation and operation of employment agreements are contractual disputes between the parties. Labour Inspectors are not statutorily empowered to seek arrears in such cases.

Labour Inspectors investigate serious complaints and also conduct investigations and audit programmes with a focus on targeted sectors of the labour market. The Labour Inspectorate does not have set criteria for when it will pursue recovery of wages for individual employees, however, the Ministry of Business, Innovation and Employment does operate a filtering and prioritising system for employment standards complaints. Only the more serious complaints are referred to the Inspectorate for investigation. The criteria for what is considered serious includes assessment of whether the complaint concerns:

1. Serious exploitative conduct
2. A mid-to-large systems issue (affecting 20 or more employees or arrears of \$100,000 or more)
3. A repeat failure

In answer to your second question, *“When was this criteria implemented?”*, The current filtering and prioritising system for employment standards complaints commenced as a pilot in the northern region of New Zealand from 1 October 2013.

In answer to your third question, *“If the criteria has recently changed (within the last 12 months), what was the previous criteria?”*, the criteria has not changed in the last 12 months.

If you wish to discuss any aspect of your request or this letter, or if you require any further assistance, you are encouraged to contact Steve Watson, Manager Business and Operations Support, on phone 027 676 8527 or by email at steve.watson@mbie.govt.nz.

You have the right to contest the decision to withhold information by seeking an investigation and review of that decision by the Ombudsman, whose address for contact purposes is:

The Ombudsman
Office of the Ombudsman
P O Box 10 152
Wellington 6143

Yours sincerely

A handwritten signature in blue ink that reads "George Mason". The signature is fluid and cursive, with the first name "George" written in a larger, more prominent script than the last name "Mason".

George Mason
General Manager
Labour Inspectorate
Ministry of Business, Innovation and Employment