

14 March 2024

File Ref: 240129

Marie  
[fyi-request-25866-86d7ddee@requests.fyi.org.nz](mailto:fyi-request-25866-86d7ddee@requests.fyi.org.nz)

Tēnā koe Marie

Thank you for your Official Information Act request received on 24 February 2024. You made the following request:

- Please provide the policy on Worksafe officers investigating incidents under HSWA where the victim/complainant is a friend to the officer. Ie if the victim visited the officer in the weekend, outside office hours at their private house to complain. Would this be considered a conflict of interest and how would this be managed? (For the avoidance of doubt the example did not involve a Worksafe employee doing this).*
- Worksafe NZ have a number of agencies with authority to investigate under the HSWA, please provide any policies around conflicts of interest as above and if those agencies are bound by any policies they need to adhere to for the integrity in enforcing HSWA and the associated reputation of Worksafe NZ.*
- Please provide the policy documents regards notifying a company that they are under investigation. Ie any policy to actually notify the company. Or are Worksafe officers allowed to call employees without notifying the company over an incident not deemed Worksafe related by those involved. ie not at a place of work or undertaking work, not in work hours and in the case of Maritime Transport Act 1994 has no business anywhere near water or ports. Would Worksafe expect other agencies to maintain consistency in these procedures.*
- Under HSWA 2015 s198 Requirement of other regulator to notify WorkSafe of notifiable event. This relates to an incident being reported under HSWA s57. S198,(2)(a)(b) requires the duty of the other regulator to advise Worksafe if they intend to carry out an investigation under HSWA. Please provide the expectation that Worksafe be notified of an investigation under HSWA if an incident was reported under Maritime Transport Act 1994 s31 as a recreational incident and through a disgruntled worker/victim complains to his MNZ officer friend that it is work related. This resulting in MNZ investigating under HSWA and MTA. Would Worksafe expect to be notified of this HSWA investigation just because it was reported under MTA s31 (deemed recreational) and not HSWA s57.*
- Please provide the prosecution policy procedures to ensure that a prosecution is fair, unbiased. Would an officer whose victim/friend is the complainant against his workplace be allowed to investigate (lead investigator), and also be part of the prosecution team?*

#### Information being released

Please find attached the following documents.

Item	Document Date	Document Title	Decision
1.	March 2019	Identifying and Managing Conflicts of Interest Policy	Release

### Information publicly available

The following information is in scope of your request and available online, as indicated:

Item	Document Date	Document Title	Website Address
2.	29 November 2023	How we make prosecution decisions	<a href="#">How we make prosecution decisions   WorkSafe</a>

Accordingly, I have refused your request for the information above under section 18(d) of the Official Information Act – the information requested is publicly available. Any information removed from the above documents will continue to be withheld under the Official Information Act for the reasons identified in the documents.

In response to each part of your request:

1. WorkSafe's *Identifying and Managing Conflicts of Interest Policy* is released to you in full. This policy only applies to people employed by WorkSafe.
2. There are other agencies in addition to WorkSafe who have authority (designation) to investigate under HSWA. These designations are set by the Prime Minister, not WorkSafe. Designated agencies are responsible for developing and adhering to their own policies in relation to their HSWA responsibilities. This includes conflicts of interest policies. As such, no documents exist for this part of your request. Therefore, I am refusing part of your request under section 18(g) of the Official Information Act, see below for explanation of withholding ground.
3. WorkSafe does not set expectations for other agencies – this is the responsibility of their monitoring agencies. In the case of Maritime New Zealand, this is the Ministry of Transport. Having consulted and searched internal records, WorkSafe has identified that it does not hold information relating to question two and three of your request. Therefore, I am refusing part of your request under section 18(g) of the Official Information Act:  
  
*that the information requested is not held by the department or venture or Minister of the Crown or organisation and the person dealing with the request has no grounds for believing that the information is either—*
  - (i) *held by another department (for itself and for a departmental agency hosted by it or an interdepartmental executive board serviced by it) or interdepartmental venture or Minister of the Crown or organisation, or by a local authority;*
  - (ii) *connected more closely with the functions of another department (for itself and for a departmental agency hosted by it or an interdepartmental executive board serviced by it) or interdepartmental venture or Minister of the Crown or organisation or of a local authority:*
4. Maritime New Zealand does not need to notify incidents notified under s31 of the Maritime Transport Act 1994 to WorkSafe. Section 198(2)(b) applies only if a regulator other than WorkSafe is notified of a notifiable event under section 56 of HSWA.
5. WorkSafe's *How we make prosecution decisions* policy is publicly available (link provided above). How this policy is applied will depend on the circumstances.

This reply addresses the information you requested. You have the right to ask the Ombudsman to investigate and review my decision, and further information is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

If you require further assistance, please contact [ministerial.services@worksafe.govt.nz](mailto:ministerial.services@worksafe.govt.nz).

Ngā mihi,

A handwritten signature in black ink, appearing to be 'Braden Sloper', with a long horizontal flourish extending to the right.

Braden Sloper  
*Head of Strategy and Policy*