




23 January 2024



Tēnā koe 

OIA: 1319786 – Information relating to the Ministry of Education’s response to Ombudsman report 500697

Thank you for your email of 5 November 2023 to WorkSafe New Zealand, part of which was transferred to the Ministry of Education (the Ministry) on 4 December 2023, requesting the following information:

“that ministry in response to ombudsman report 500697 issued 28 sep 2023, stated--- given the gravity of the incident and findings of worksafe the matter should have been escalated to secretary of education,/ chief executive for consideration. under sec 22 oi act i request hard copies of all documents which state to ministry of education employees, under what circumstances, including nature of issues, when such matters must be escalated to education chief executive.”

Your request has been considered under the Official Information Act 1982 (the Act).

Your request is for guidance to Ministry staff on our internal processes for managing incidents which are reported by ECE centres. By its nature, this internal guidance does not set out decision-making rules for serious harm incidents, which would affect any person. As such, your request has been considered under section 12 of the Act.

The Ministry takes the health and safety of children attending any educational facility seriously and we acknowledge the findings and opinion in the Ombudsman Report 500697. We have interpreted that your request is for documents relating to the escalation to the Secretary for Education of serious harm incidents in ECE centres.

We have identified one document in draft that is currently being developed ‘Framework for notification to Ministry of serious harm to a child enrolled at a licensed service’. This document is in early-stage draft form, which requires robust internal feedback and sign-off. I am therefore refusing your request under section 18(a) of the Act, that by virtue of section 9(2)(g)(i) withholding the information is necessary to maintain the effective conduct of public affairs through the free and



frank expression of opinions by or between employees of any public service agency in the course of their duty.

As required under section 9(1) of the Act, I have considered the public interest in releasing the information withheld. I do not consider the public interest considerations favouring the release of this information are sufficient to outweigh the need to withhold it at this time.

Education Managers in regional offices have the delegations to make decisions regarding licensing issues and sanctions for ECE services, which includes the management and resolution of incidents in ECE services. We have included with this response a flowchart that instructs how Ministry staff manage incident notifications from an ECE service. This is attached as **Appendix A**. This flowchart reflects the standard process once the Ministry is notified of an incident. While the flowchart does not incorporate a pathway of notifying the Secretary for Education, employees exercise discretion based on a risk assessment to escalate matters to their line managers, on a case-by-case basis, which could go as far as the Secretary. For example, when there is serious/harm or a death or when there is significant public interest in a serious incident involving a child which has occurred at a service.

Please note, we may publish this response on our website after five working days. Your name and contact details will be removed.

Thank you again for your email. You have the right to ask an Ombudsman to review my decision on your request, in accordance with section 28 of the Act. You can do this by writing to info@ombudsman.parliament.nz or to Office of the Ombudsman, PO Box 10152, Wellington 6143.

Nāku noa, nā



Ray McMillan

General Manager | Network and Regulatory
Te Mahau | Te Pae Aronui (Operations and Integration)