

# Client Update

Shaping the future of insurance law

## Focus on privacy – keeping personal information up-to-date

3 MARCH 2021

### AT A GLANCE

- A new case note highlights how failures to keep personal information up-to-date, and to act on requests to update personal information, can lead to privacy exposures.
- This case involved a breach of Information Privacy Principle 8, which was resolved with a confidential settlement.
- To manage similar risks, agencies need to have the right policies and procedures in place.

The latest case note from the Office of the Privacy Commissioner (OPC) serves as a timely reminder to agencies about their obligations regarding the use of personal information. It involves a debt management agency that mistakenly attributed debts to the complainant for two years and failed to respond to requests to correct personal information.<sup>i</sup>

### BACKGROUND

The complainant discovered a debt had been registered against his name after his application for a utility connection was declined. The unpaid debt had been incorrectly listed in the complainant's credit history by a debt management agency.

The complainant contacted the agency and advised it had registered the debt against the wrong individual. The complainant had a different middle name to the debtor and had never lived at the address listed by the agency. Despite the complainant's repeated attempts to have the mistake corrected, the agency failed to rectify the error for two years.

### PRIVACY COMMISSIONER INVESTIGATION

While this complaint was considered by the OPC under the Privacy Act 1993, the obligations remain the same under the Privacy Act 2020.

The complainant alleged that, as a result of the error, he had lost jobs, struggled to obtain housing, had been chased for debts he did not owe, and was unable to obtain loans. He also claimed to have experienced mental health issues from the resulting stress.

The agency admitted it had attributed the debt to the complainant in error and withdrew the credit defaults from his file. The matter was resolved with a confidential, but likely significant, financial settlement.



**Agencies need to have policies and procedures to ensure the accuracy of personal information.**

## LESSONS LEARNED

This case is a textbook example of a breach of Information Privacy Principle 8, which requires agencies take reasonable steps to ensure information they possess is “accurate, up-to-date, complete, relevant and not misleading”. Individuals are also entitled to request corrections to their personal information under Information Privacy Principle 7.

The seriousness of this matter was undoubtedly exacerbated by the nature of the harm caused, although it is likely any harm suffered at a lesser level will still constitute a breach. The OPC has indicated that even the

ongoing use of an individual’s old addresses may justify a complaint, if a request for amendment is not responded to appropriately.<sup>ii</sup>

The case demonstrates that agencies need to have policies and procedures in place to ensure the accuracy of personal information is checked at appropriate intervals, and that requests for amendments to personal information are managed. At a minimum, agencies should have procedures for recording requests for amendments made by an individual.<sup>iii</sup>

## NEED TO KNOW MORE?

For more information please contact us.



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<sup>i</sup> Case note 312145 [2021] NZPrivCmr 1.

<sup>ii</sup> Refer <https://privacy.org.nz/tools/knowledge-base/view/143>.

<sup>iii</sup> See IPP7(4).