

# Privacy Commissioner Case Note

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## Case Citation:

*K v Health Service Provider* [2008] PrivCmrA 11

## Subject Heading:

Improper disclosure of health information to a newspaper

## Law:

Section 6 and National Privacy Principle 2 in Schedule 3 of the *Privacy Act 1988* (Cth)

## Facts:

The health service provider was interviewed by a newspaper about their work in a remote community. As part of the interview, the health service provider discussed aspects of the complainant's health care. The health service provider did not specifically name the complainant, however, they did discuss the complainant's medical history. The complainant claimed that given the nature of the information discussed and the specific and remote location of the community, the complainant's identity was apparent to other residents of that community.

## Issues:

Section 6 of the Privacy Act defines personal information as information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

National Privacy Principle 2.1 provides that an organisation must not use or disclose personal information about an individual for a purpose other than the primary purpose of the collection unless an exception in National Privacy Principle 2.1(a)-(h) applies.

## Outcome:

The Privacy Commissioner commenced preliminary enquiries into the complaint under section 42 of the Privacy Act in order to establish whether to investigate the matter.

Both parties agreed that the publication of the information may have led to the identification of the complainant, and that it appeared likely that there had been an interference with the complainant's privacy in this instance. Both parties were committed to resolving the matter without the need for a formal investigation by the Commissioner.

The parties agreed to an amount of financial compensation being paid to the complainant in full and final settlement of the matter.

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Section 41(2)(a) of the Privacy Act gives the Commissioner a discretion not to investigate, or not to investigate further, an act or practice about which a complaint has been made if the Commissioner is satisfied that the respondent has dealt adequately with the matters that gave rise to the complaint.

In this case, the complainant was satisfied with the outcome and the Commissioner closed the complaint under section 41(2)(a) of the Privacy Act on the basis that the health service provider had adequately dealt with the matter.

**OFFICE OF THE PRIVACY COMMISSIONER**

**June 2008**