

'DK' and Telstra Corporation Limited [2014] AICmr 118 (30 October 2014) – Australian Information Commissioner

'Family law judge' – 'Following, harassing and monitoring' – 'Non-economic loss' – 'Privacy'

Proceedings: Complaint under s 36(1) of the *Privacy Act 1988* (Cth) (Privacy Act).

Facts: The complainant worked as a judge in the family law jurisdiction. He requested that Telstra connect a phone line to his home for the sole purpose of an alarm system installed by the Court. Telstra set up the phone line and published the complainant's name, address and the phone number in both the White Pages online and in the hard copy directory.

Issues: Whether Telstra had breached the complainant's privacy.

Decision and reasoning: Telstra interfered with the complainant's privacy by failing to take reasonable steps to provide notice to the complainant that it would use and disclose his personal information for the purpose of publishing it in the White Pages, in breach of National Privacy Principle (NPP) 1.3. Telstra was ordered to apologise, review its processes and review its Privacy Statement.

Telstra was also ordered to pay the complainant \$18,000 for non-economic loss. In reaching this amount, the Commissioner noted the following evidence from the complainant:

"Since the publication of my details a litigant from a matter decided by me has begun to loiter at and about our home. As my details and those of my partner are suppressed on every public register I infer his knowledge of our address is the White Pages site...

"We have just moved to our home and our enjoyment of it has been rudely interrupted... We both jump whenever the street bell rings. I have applied to be transferred interstate. On moving we will incur moving costs, expenses re sale of our home and costs of resettling... We will both have expenses travelling to visit family and friends as our lives, to date, have been in [omitted]...

"The invasion of and prejudice to my privacy and personal safety can be readily envisioned as arising for others such as victims of crime, women fleeing domestic violence and the like."

In awarding compensation, the commissioner was guided by severity of the impact of the privacy breach on the complainant (with concerns for his/his partner's safety leading him to move interstate); the added security threat he/his partner were exposed to; the responsibility of Telstra as an organisation to have appropriate measures in place; and the extent of the publication to a very wide audience in both online and hard copy form.