

## ***'ST' and Chief Executive Officer of Services Australia (Privacy) [2020] AICmr 30 (30 June 2020) – Australian Information Commissioner***

'Damages for non-economic loss' – 'Disclosure for tribunal proceedings' – 'Following, harassing and monitoring' – 'Information privacy principles' – 'Privacy'

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

Facts: The female complainant's complaint concerned the disclosure of her personal information, collected by the former Child Support Agency for a Tribunal hearing, to the complainant's ex-partner. She claimed that the personal information revealed the places she visited which she had attempted to keep hidden from the ex-partner as she feared harm.

Issues: Whether Services Australia interfered with the complainant's privacy as defined in the Privacy Act.

Decision and reasoning: Services Australia interfered with the complainant's privacy, breaching the Information Privacy Principles (IPP), by disclosing the complainant's personal information in breach of IPP 11. The locational information disclosed was not relevant to the decision under review by the Tribunal and the complainant was therefore not likely aware that information of its kind would be disclosed.

In terms of damages, the Commission accepted that the complainant had already disclosed some of the places she had frequented through other processes. The Commissioner noted at [75]-[76]:

"I do not consider that the previously disclosed information negates the complainant's claim to have feared the ex-partner locating her. The complainant clearly went to some lengths to redact certain information from the documents she provided in the primary decision process and I accept her claim that she thought carefully about what information to disclose."

"However, I am of the view that in all the circumstances, the degree by which the disclosure contributed to the complainant's fear of being located by the ex-partner was not significant. I place weight on the fact that the complainant had disclosed some locations to the ex-partner during the COA process and that she continued to maintain a PO Box at the same post office as the ex-partner. I also note the absence of any evidence showing that the complainant sought the assistance of police. While I accept the complainant's claims to have feared being located by the ex-partner, these claims are not so specific and detailed (nor are they supported by specific and detailed corroborating evidence) as to cause me to form the view that the disclosure exacerbated her fear of being located to a significant extent."

The Commissioner was satisfied that the privacy breach had caused the complainant distress, but no other claimed damage. She was awarded \$3,000 for non-economic loss.