

## **Council accidentally disclosed personal information following a request for official information**

The need for caution when councils deal with official information requests has been highlighted in a recent complaint dealt with by the Privacy Commission. Anderson Lloyd experts Michael Garbett and Rachel Brooking give some insight on this case.

The Privacy Commission recently released a case note (Case Note 234888 [2012] NZ PrivCmr 9) on a complaint about council actions in relation to requests for information under the Local Government Official Information and Meetings Act 1987 (LGOIMA). This case note considers the relationship between the LGOIMA and the Privacy Act 1993. Below is a summary of the case.

### **Lesson**

This case demonstrates that councils need to take care to protect personal information about individuals, particularly complainants, even when the information is asked for under the LGOIMA.

### **Facts of the case**

A man complained about his neighbour to the local council. The man's complaints were made on the basis that his name would remain confidential. Following the complaint, the neighbour then made a request, under section 10 of the LGOIMA, for the council to provide him with all of the information it held about the complaints.

The council released the requested information to the neighbour. But when the council released the information to the neighbour it did not remove the complainant's name. After receiving the information, the neighbour confronted the man about the complaints he made to the council.

After the confrontation, the original complainant made a complaint to the Privacy Commission about the council's disclosure of his personal information. This complaint raised issues under principle 11 and section 7 of the Privacy Act.

### **Principle 11 and section 7 of the Privacy Act**

Principle 11 of the Privacy Act says a council that holds personal information must not disclose that information unless it has reasonable grounds to believe that one of the exceptions applies. Here none of the exceptions in principle 11 applied.

However, under section 7(1) of the Privacy Act if another statute authorises or requires personal information to be released then that other statute will override principle 11. The LGOIMA is a statute that authorises or requires disclosure of information.

Also under section 41 of the LGOIMA, if information is made available by a council in good faith it is protected from any civil or criminal proceedings that may arise from releasing that information. This includes Privacy Act proceedings.

In this case the council had simply made a mistake when it released information in good faith that identified the complainant. The LGOIMA applied and overrode principle 11.

The case note stated that the Ombudsman may be able to consider whether a council that mistakenly releases information acted reasonably in terms of the Ombudsman Act 1975.

To avoid confrontations being created such as this, caution is needed when dealing with LGOIMA requests that contain personal information.

For any questions or to discuss this case, please call our official information experts:



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