

Scenario 4: A couple complained to our office after they found out that a medical centre receptionist had disclosed sensitive medical information about them.

The receptionist had been at a family gathering with a number of extended family members.

One of the people present was a close friend of the couple and knew that they had visited the medical centre. During the gathering, she showed the receptionist a photo of the couple and asked why they had been at the centre.

The receptionist initially rebuffed the questions, explaining she could not discuss patient records because it breached patient privacy. At this point, she claimed she was pressured further to divulge details of the appointment. After swearing others to secrecy, the receptionist revealed the couple had been into the clinic months ago for a sexual health test.

The news of the disclosure got back to the couple when one of the guests told them. The receptionist called to apologise. During the conversation, the receptionist admitted the privacy breach.

The couple complained to the Health and Disability Commissioner, who then referred the case to us.

In their complaint to us, the couple said there was no reasonable explanation as to why the receptionist would have known about the test, unless she had improperly accessed medical files.

We contacted the medical centre. The medical centre admitted the breach, but said it did not believe it was responsible for the employee's disclosure.

During the medical centre's own investigation, the receptionist claimed to have come across the information in the patient notes months earlier, but was unable to recall for what reason.

We asked the medical centre to outline what privacy training it gave its staff to assess whether they were adhering to the HIPC rules. The centre said it had taken steps to ensure its staff were aware of the importance of keeping patient information confidential. New employees were required to complete the Privacy Commissioner's online training module and their employment contracts included confidentiality agreements.

The centre informed us that its patient file management system recorded when a staff member edited a file, but not when they accessed it. We suggested the medical centre make changes to its electronic records system to ensure its security safeguards were more robust.

The medical centre began a disciplinary process that resulted in the receptionist being dismissed.

We formed the view that the appropriate forum to determine whether the medical centre had a defence under s 126(4) of the Privacy Act was the Human Rights Tribunal (HRRT).

We discontinued our investigation after several emails to the complainants were not responded to. We provided the complainants with a certificate of investigation to take the case to the HRRT, should they wish to take the case further.

<https://www.privacy.org.nz/publications/case-notes-and-court-decisions/case-note-298757-2019-nzpriv-cmr-5/>