IN THE HUMAN RIGHTS REVIEW TRIBUNAL **[2013] NZHRRT 9**

	Reference No. HRRT 037/2011, 038/2011 & 039/2011
UNDER	**THE PRIVACY ACT 1993**
BETWEEN	**RAZDAN RAFIQ**
	PLAINTIFF
AND	**CHIEF EXECUTIVE, MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT**
	DEFENDANT

AT WELLINGTON

BEFORE:

Mr RPG Haines QC, Chairperson
Dr SJ Hickey, Member
Dr AD Trlin, Member

REPRESENTATION:
Mr R Rafiq in person (no appearance)
Mr S Cohen-Ronen for Defendant

DATE OF HEARING: **12 April 2012**

DATE OF DECISION: **8 April 2013**

DECISION OF TRIBUNAL

Change to description of defendant

[1] At the time these proceedings were commenced and at the time they were heard on 12 April 2012 the proper defendant was the Chief Executive of the Department of Labour. See the *Minute* issued by the Chairperson on 23 December 2011.

[2] As from 1 July 2012, however, the Department of Labour became part of the Ministry of Business, Innovation and Employment. See the State Sector (Ministry of Business, Innovation, and Employment) Order 2012 (SR2012/91). Consequently ss 30H and 30I of the State Sector Act 1988 require the defendant in these proceedings to be treated as the Chief Executive of the Ministry of Business, Innovation and Employment.

Consolidation of proceedings

[3] By *Minute* dated 23 December 2011 the Chairperson consolidated these three proceedings under Regulation 16(1) of the Human Rights Review Tribunal Regulations 2002:

> **[3]** The statement of reply filed by the Chief Executive in these three matters at para [4] also points out that the statement of claim in HRRT 037/2011 is bereft of particulars and it is possible that the claims in 037/2011 and 039/2011 relate to the same matters.
>
> **[4]** If the Chief Executive is embarrassed in his defence he is free to file an application for particulars.
>
> **[5]** Either way, however, it is clear that all three proceedings are closely related. To ensure that they are heard, determined or otherwise dealt with fairly, efficiently, simply and speedily as is consistent with justice, an order is made under Regulation 16(1) of the Human Rights Review Tribunal Regulations 2002 that all three proceedings be consolidated. That is, the proceedings are to have a joint intituling, being the intituling shown in this *Minute* and the evidence filed in one of the proceedings is to be treated as having been filed also in the other. The objective is to achieve a single hearing on consolidated pleadings on a single body of evidence.

[4] While the Chief Executive did file an application for particulars, that application was not pursued.

Introduction

[5] In each of these three proceedings Mr Rafiq has filed statements of claim which are largely incoherent and unparticularised. These failings have been compounded by his "statements of evidence" which are equally incoherent and which are, in parts, both abusive and offensive. He chose not to appear at the substantive hearing. His participation in these proceedings has been on his own terms without regard to his duty to participate in them meaningfully and in good faith.

[6] The circumstances in which Mr Rafiq did not appear at the hearing at Wellington on 12 April 2012 are explained in *Rafiq v Commissioner of Inland Revenue* [2012] NZHRRT 12 (23 May 2012) at [2] to [6] and in *Rafiq v Commissioner of Police* [2012] NZHRRT 13 (23 May 2012) at [2] to [4], being decisions given by this Tribunal in related proceedings brought by Mr Rafiq and heard in the same week.

The jurisdiction of the Tribunal

[7] For a plaintiff to succeed before the Tribunal on a claim under the Privacy Act 1993, the plaintiff must first establish jurisdiction for the Tribunal to consider the particular claim. The plaintiff must also satisfy the Tribunal on the balance of probabilities that any action of the defendant is an interference with the privacy of the plaintiff. Without these pre-requisites the Tribunal does not have jurisdiction under s 85 of the Act to grant a remedy.

[8] The statement of claim in HRRT037/2011 alleges multiple breaches of information privacy Principles 1, 3, 4, 5, 7, 8 and 11. The statement of claim in HRRT038/2011 alleges multiple breaches of information privacy Principles 1 to 11 while the statement of

claim in HRRT039/2011 alleges multiple breaches of information privacy Principles 1 to 7 and 9 to 11.

[9] The extremely broad basis on which the three present claims are advanced against the Ministry coupled with the equally generalised and sweeping allegations made in the statements of claim raise jurisdictional issues of a fundamental nature.

[10] The effect of ss 82(1) and 83 of the Privacy Act 1993 is that the Tribunal only has jurisdiction over "any action" alleged to be an interference with the privacy of an individual **and in relation to which** the Privacy Commissioner has conducted an investigation.

[11] To ensure clarity as to what "action alleged" has been investigated by the Privacy Commissioner, the Commissioner issues a Certificate of Investigation particularising the subject of the investigation. It is this certificate which sets the boundary of the Tribunal's jurisdiction.

[12] In the present case the Privacy Commissioner has issued two such Certificates of Investigation. They are dated 5 June 2009 and 7 March 2011 respectively. In the interests of brevity we reproduce only the relevant parts of the certificates.

Certificate of Investigation dated 5 June 2009

Matters Investigated	Mr Rafiq made an access request to INZ in mid-October 2008 for information about him. Mr Rafiq complained that INZ's response to this request contained no evidence to support its claims that he was involved in fraud. Mr Rafiq also complained that INZ had not corrected the information it holds about him to his satisfaction.
Principle(s) applied	Principles 6 and 7 of the Act

Certificate of Investigation dated 7 March 2011

Matters Investigated	Mr Rafiq stated that he made a request to INZ, on 5 January 2010, for a copy of any alerts on his file and for confirmation of his residence status. INZ responded to release some information and to withhold some alert information under sections 27(1)(c) and 29(1)(a) of the Privacy Act.
Principle(s) applied	Principle 6 of the Privacy Act

[13] The Certificate of Investigation dated 5 June 2009 would appear to apply most appropriately to the proceedings filed as HRRT037/2011 and HRRT039/2011. In these two matters the Tribunal can consider only alleged breaches of information privacy Principles 6 and 7. The Certificate of Investigation dated 7 March 2011 would appear to apply to the proceedings filed as HRRT038/2011. In that matter the Tribunal can consider only alleged breaches of information privacy Principle 6.

[14] The position in relation to HRRT037/2011 and HRRT039/2011 is confirmed by the helpful letter dated 28 November 2011 from the Privacy Commissioner and signed by Ms Katrine Evans, Assistant Commissioner (Legal and Policy):

> **Rafiq v Immigration New Zealand (HRRT037/11 and 039/11)**
>
> Thank you for your letters and Mr Rafiq's statements of claim.
>
> The statements of claim relate to the same complaint file (C/20960). I have therefore considered them together. We investigated this complaint under principles 6 and 7 of the Act.

The actions that we investigated (so as to give the Tribunal jurisdiction to consider the case under section 82(1)) were the Department's refusals:

(a) to provide Mr Rafiq with information that he had requested under the Privacy Act
(b) to correct information in response to his request for correction.

So our view is that the Tribunal has jurisdiction to consider whether the defendant had a proper basis to withhold information in response to Mr Rafiq's request or to refuse to correct information that it held.

On the forms, however, Mr Rafiq has stated that he is bringing proceedings under other principles of the Privacy Act. In particular, under 037/11 he has made various claims about collection, disclosure, security and failure to ensure accuracy of personal information.

We did not investigate whether the Department acted in the way he claims. The Department was not on notice about those claims before these proceedings commenced. It has not had the opportunity to defend them or resolve those aspects of the dispute through our complaints process.

Therefore, the Tribunal does not have jurisdiction to consider aspects of MR Rafiq's claim that may fall under principles 1-5 or 8-11.

[15] In relation to HRRT038/2011 Ms Evans wrote on 28 November 2011 in the following terms:

Rafiq v Department of Labour and Immigration New Zealand (HRRT038/11)

I have received your letter and Mr Rafiq's statement of claim.

On part 3 of the Tribunal's form, Mr Rafiq has indicated that he is claiming a breach of principles 1-11 of the Privacy Act.

We investigated this complaint under principle 6 of the Act. The action that we investigated (so as to give the Tribunal jurisdiction to consider the case under section 82(1)) was the Department's refusal to provide Mr Rafiq with information that he had requested under the Privacy Act.

Reading the statement of claim, this appears to coincide with what Mr Rafiq is actually asking the Tribunal to consider. The only order that he is seeking from the Tribunal is that the defendants should release the withheld information to him.

Our view is therefore that Mr Rafiq can bring these proceedings. The Tribunal has jurisdiction to consider whether the defendants had a proper basis to withhold information in response to Mr Rafiq's request.

To the extent that Mr Rafiq may possibly wish to claim that other actions of the Department breached the Privacy Act, however, the Tribunal would not have jurisdiction to consider that claim.

[16] The analysis offered by the Privacy Commissioner in these two letters is correct. In these proceedings the Tribunal has jurisdiction to consider only complaints relating to Principles 6 and 7.

[17] Given that information privacy Principles 6 and 7 are the focus of these proceedings, their text follows:

Principle 6

Access to personal information

(1) Where an agency holds personal information in such a way that it can readily be retrieved, the individual concerned shall be entitled—

(a) to obtain from the agency confirmation of whether or not the agency holds such personal information; and

(b) to have access to that information.

(2) Where, in accordance with subclause (1)(b), an individual is given access to personal information, the individual shall be advised that, under principle 7, the individual may request the correction of that information.

(3) The application of this principle is subject to the provisions of Parts 4 and 5.

Principle 7

Correction of personal information

(1) Where an agency holds personal information, the individual concerned shall be entitled—

(a) to request correction of the information; and

(b) to request that there be attached to the information a statement of the correction sought but not made.

(2) An agency that holds personal information shall, if so requested by the individual concerned or on its own initiative, take such steps (if any) to correct that information as are, in the circumstances, reasonable to ensure that, having regard to the purposes for which the information may lawfully be used, the information is accurate, up to date, complete, and not misleading.

(3) Where an agency that holds personal information is not willing to correct that information in accordance with a request by the individual concerned, the agency shall, if so requested by the individual concerned, take such steps (if any) as are reasonable in the circumstances to attach to the information, in such a manner that it will always be read with the information, any statement provided by that individual of the correction sought.

(4) Where the agency has taken steps under subclause (2) or subclause (3), the agency shall, if reasonably practicable, inform each person or body or agency to whom the personal information has been disclosed of those steps.

(5) Where an agency receives a request made pursuant to subclause (1), the agency shall inform the individual concerned of the action taken as a result of the request.

Identifying the relevant complaints

[18] It is barely possible to make sense of the rambling, disjointed and jumbled pleadings in these three proceedings and the equally unfocussed, disorganised and barely coherent "statements of evidence". Two such statements have been filed. The first is dated 17 January 2012 and the second is dated 26 March 2012. It is even more difficult to distinguish the allegations made in one set of proceedings from the allegations made in another. There is considerable overlap. In the hope of bringing some clarity to the analysis we will address first the evidence called by the Ministry in response to the allegations made by Mr Rafiq before assessing those allegations against the requirements of the Privacy Act.

The evidence called by the Ministry

[19] The evidence called by the Ministry was from Ms MH Cantlon, Manager of the Government Relations Unit in the Office of the Deputy Chief Executive Immigration Group. She said:

> **[19.1]** The Ministry maintains a database for managing immigration applications. That database is known as the Application Management System (AMS).
>
> **[19.2]** When an immigration application is received such as a visa application, a search is made of AMS to see if the Department already has a record of that applicant or client. If there is no record, the applicant is given a "Client Number" and their personal details and application details are recorded under that number. The AMS record for the client will then be used for managing any subsequent application from that client. AMS also stores information concerning that client, such as expiry of the visa, travel movements in and out of New Zealand, travel document details, cross-references to family members and their client numbers, subsequent visa applications, or any other information received by the Ministry which pertains to the relevant client.

[19.3] It is the Ministry's understanding that Mr Rafiq's claims appear to focus on Client Alert information kept on his AMS records. The Client Alert Tab of AMS may include information about a client provided by third parties or informants. The information may be pertinent to a decision on pending applications. A Client Alert may include information provided by the client themselves through formal or informal communication, information from other law enforcement agencies, or from internal staff who wish to "flag" a matter, for the benefit of future consideration of the client's applications.

[19.4] Recording information under an AMS alert does not necessarily mean that the Ministry has established that the information is correct, accurate, verified or reliable. All it means is that the information has been provided to the Ministry or brought to its attention and it is recorded under the relevant client's file for future reference. It is proof that the Ministry obtained the information, rather than proof of the content or the allegations included therein. The manner in which the information recorded under AMS alerts is to be used or relied upon by the Ministry in making future decisions is governed by general administrative law principles such as natural justice and good faith. This is the reason why the Ministry is careful to include qualifying comments whenever it records potentially adverse information.

[19.5] Contrary to what Mr Rafiq may believe, the Ministry is not required to prove that information received from third parties about him is factually correct before recording that information on AMS. If AMS information becomes pertinent to a departmental decision, such information will be put to the applicant or client for response prior to the making of a decision.

[19.6] The Ministry has always allowed Mr Rafiq the opportunity to request correction of the information as provided for under the Privacy Act. In Ms Cantlon's opinion, this does not mean that disputed information should be deleted, but rather that the client's view of the disputed information should be taken into consideration before the information is used.

[19.7] The Ministry has received two requests from Mr Rafiq under Principle 7 requesting the correction of personal information. On each occasion the Ministry has not been willing to correct that information in accordance with the request but has attached to the information the statement provided by Mr Rafiq of the correction sought.

[19.8] The first Principle 7 correction is dated 1 February 2010 and is in the following terms:

> The following passage was provided by Mr Rafiq who requested under Principle 7 of the Privacy Act, that it be placed on his file. Leslie Haines, Acting Deputy Secretary, Workforce agreed to that in her letter of 29 January 2010. DS Complaint 09/90357 refers. The letter containing the passage is to be found with Mr Rafiq's physical file.
>
> "Mr Rafiq has mentioned in a letter dated 22 January 2010 to the Chief Executive Officer, that Cindia Chiu, Mark Reitz (Fraud Investigator), Andrew/Wendy (Fraud Office – Fraud Investigators), Rob Laraby Milnes (Fraud Investigator) are to be dismissed from any involvement to any of his matters. Mr Rafiq states that these NZ racist Europeans have undertaken unlawful investigation against him on number of illegitimate grounds and that there is a high risk for them placing incorrect information in innocent peoples' (Maoris, Indians, Asians, African and Pacific Island people) immigration record of this country."

[19.9] The second Principle 7 correction is dated 18 February 2004 and is in the following terms:

> The following is another passage provided by Mr Rafiz, which I am entering following advice from Legal (Phil McCarthy) that it is appropriate to under Principle 7(1)(b) of the Privacy Act. The letter in which this passage was contained has been placed on Mr Rafiq's physical file.
>
> "Statement of Correction to following information misleadingly entered by the highly racist European staffs;
>
> - Misleading information entered and held by INZ;
> - That I have sponsored some family members of mine who overstayed. Mr Rafiq wrote in a professional manner on the 21 January 2010 and stated that the above information is incorrect and completely completely misleading. He claims that highly racist European staffs (who do not like black, indigenous Maoris – owner of NZ, Indian, Pacific Islanders and Asian people) have purposely entered in his immigration record that he has sponsored some family members of his who have overstayed so that he is not in a position to sponsor any one in the near future not even his siblings and to further torture him by entering false information that he is involved in fraud related activity. He claims that he is a professional person, always there to help people and cannot see others getting hurt (exception applies to people who are racist like in the Department of Labour & INZ) and that he is not involved in any fraud related activity as misleadingly states in his record. He states that Europeans staffs are racist as they do not like other ethic groups as described above so they insert false information so that other ethnic groups get hurt to the maximum and leave this country so that European people could take over NZ fully (all the lands) and kick indigenous Maoris to one side of the country as it happened to the Aborigines of Australia. Finally, he states that Department of Labour and INZ, being government departments follow black and white people policy.

[19.10] To the best of Ms Cantlon's knowledge Mr Rafiq has not asked for any other corrections.

[19.11] It is her understanding that at the heart of his complaints lies Mr Rafiq's belief that because he does not agree with a lot of the information held on the AMS system and on his file, the information is to be deleted.

[20] Ms Cantlon's understanding is borne out by the two "statements of evidence" filed by Mr Rafiq. Both documents are unsworn. They attach various documents provided by the Ministry to Mr Rafiq. On these documents Mr Rafiq has circled particular passages and added by way of handwritten margin note "false allegations" or "false allegations, no evidence" or similar. The following are provided by way of example only:

[20.1] In relation to an AMS note recording that:

> On 11 February 2008 Rafiq changed his name again by statutory declaration of name change (Deed Poll) to Rayshane Mallan

Mr Rafiq has written "false allegation".

[20.2] Next to an entry reading:

> However, in light of the above please ensure that any applications involving or associated with this client are verified 100%

he has written "false allegation, no evidence".

[20.3] In relation to an entry:

> Please note that this information was received from Tauris Leather Company but as such INZ did not take any action based on the information received. It was purely reported to INZ by a third party

Mr Rafiq has written "false allegations, no evidence".

[20.4] In relation to an entry reading:

> This client has been using a fictional "twin brother" called Mohammed Razdan Khan to attempt to avoid various criminal charges made against him. When caught, his MO has been to claim, later, that his "twin brother" had done it and was giving his details to the Police instead of his own, his Police record includes three separate driving offences and disorderly behaviour. He has admitted to the police that he did not hold a driving licence despite driving to his flying school for the last year and a half

Mr Rafiq has written "false allegations, no evidence".

[21] In the statement of claim filed in HRRT039/2011 Mr Rafiq demands that all false allegations be deleted and the files destroyed.

[22] By way of his statement of evidence dated 26 March 2012 Mr Rafiq has filed a "reflection" on Ms Cantlon's brief of evidence. In a cut and paste exercise he has isolated each paragraph of that brief and beneath it inserted his comments. The following are examples of his "reflections":

[22.1] Ms Cantlon's written statement of evidence is "not at all evidence but unwarranted and unsubstantiated false allegations".

[22.2] In relation to the first paragraph of her written statement in which Ms Cantlon gives her full name and position description, Mr Rafiq has written:

> There is no evidence corroborating the above. She should not be trusted like other women. The Chairperson knows how much I hate women and my abuse towards them.

[22.3] In relation to a paragraph in which Ms Cantlon states that she has read Mr Rafiq's statements of claim and statements of evidence and observes that while she finds some of his arguments difficult to understand, she believes that he applies to have his personal information fully disclosed and then deleted by the Department, Mr Rafiq has replied:

> There is no evidence constituting the above false, fabricated defamatory statement. If she cannot understand the concepts of my arguments then there is no need to file a written statement.

[22.3] In relation to almost every other paragraph in Ms Cantlon's brief Mr Rafiq has responded:

> There is no evidence constituting the above false/fabricated defamatory statement.

[23] Mr Rafiq then offers his "reflection" on one of the AMS "warnings" (it is the seventh of eight). That warning reads:

> Any communication with this client must be completed with extreme caution. Client has forwarded two letters to DoL staff which contain offensive and vitriolic language. Both letters have been referred to NZ Police for assessment as to criminal liability.
>
> Please ensure that any future letters or correspondence received from this client that contain offensive content are forwarded to the Branch Manager Compliance Operations;

dean.blakemore@dol.govt.nz.

In relation to this warning Mr Rafiq has responded:

> The above are unproven allegations and is defamatory. Yes if all the allegations are not deleted then I am going to abuse Dean Blakemore so much in every ways and every positions that even the Police will think many times where to commence its investigation from and to place charges against me and how to prove the charges in the Court beyond all reasonable doubts! It is funny how he mentioned above that my abusive letters were forwarded to the Police. Police upon hearing my abusive languages their blood start coming out of their eyes, ears and other places that cannot be possible whenever they meet me! …

[24] Mr Rafiq concludes his statement dated 26 March 2012 with a personal threat against Ms Cantlon:

> If the Defendants do not delete all the false/con allegations more widespread abuse to Europeans and more expulsion of taxes/loans will take place, more swear, abusive to Inland Revenue staffs. I will commence my abusive actions from Margaret Hessalina Cantlon, Sandra Holes, as soon as these proceedings are over. I am looking at sexual abuse with Margaret Cantlon and Sandra Holes with me my favourite. It makes the male Judge in the Court smile whenever he hears my analysis of sexual abuse towards women. I always inform the Judge that I am a sexually type of person. Other male staffs in the Court room hear contemplatively my description of sexual abuse to women – they really like it! If the Defendants delete all the allegations I promise that I will not advance any sexual abuse to European women staffs of the Defendants and all other types of abuse to Europeans from this government department.
>
> Delete all allegations no abuse from me I promise!

[25] In the statement of claim filed in HRRT037/2011 Mr Rafiq makes an unparticularised allegation that he has approached the Ministry "on numerous occasions" with a request that it "attach and correct false and or misleading distorted information that they have generated over the past years". No particulars are given of the "occasions" or of the content of the requests:

> The Defendants were approached by me on numerous occasions to attach and correct false and or misleading distorted information that they have generated over the past years to cause great degree of aggravation. The Defendants had failed to advance this request. The Defendants have been ignoring my letters in request for the above specified actions. The defendants have been abusing Maoris to me by stating "Maoris do not have the brains to run this country". If the Defendants deny making this allegation I shall provide a witness statement to prove this. This should be taken into account to assess the creditability of the Defendants.

[26] The unchallenged evidence given by Ms Cantlon is that on the two occasions Mr Rafiq has requested a correction under Principle 7, statements of the correction sought but not made have been attached to the information in compliance with Principle 7(3).

[27]In the face of what we have described as the largely incoherent and unparticularised pleadings, it is difficult to give a more detailed overview of these three proceedings.

Conclusions

[28] We have arrived at the following conclusions:

> **[28.1]** It is not a requirement of the information privacy principles that before an agency holds personal information it must first be proved that that information is factually correct.
>
> **[28.2]** It is a requirement of information privacy Principle 8 that before an agency that holds personal information uses that information it must take such steps as are in the circumstances reasonable to ensure that, having regard to the purpose

for which the information is proposed to be used, the information is accurate, up to date, complete, relevant, and not misleading. We are satisfied by the evidence given by Ms Cantlon that Principle 8 is observed by the Ministry.

[28.3] All corrections sought by Mr Rafiq have been made by the Ministry.

[28.4] Mr Rafiq did not give evidence at the hearing or even attend the hearing. He has filed no sworn evidence in support of his three proceedings. There is no credible evidence before the Tribunal to support his allegations. For example, there is no evidence that the "corrections" now sought in his various pleadings are anything more than unreasoned and unsubstantiated assertions.

[28.5] Mr Rafiq's implicit assertion that the Ministry is obliged to delete from its records anything Mr Rafiq disagrees with is a legally untenable proposition.

[28.6] The Tribunal only has jurisdiction to grant a remedy under s 85 of the Privacy Act if it is satisfied on the balance of probabilities that any action of the defendant is an interference with the privacy of an individual. Because Mr Rafiq has filed no credible evidence, has not attended the hearing and has not given evidence at the hearing he has failed comprehensively to so satisfy the Tribunal.

[29] Furthermore we are satisfied under s 115 of the Human Rights Act 1993 (incorporated into the Privacy Act by s 89 of that Act) that these proceedings are vexatious or not brought in good faith:

> **115 Tribunal may dismiss trivial, etc, proceedings**
>
> The Tribunal may at any time dismiss any proceedings brought under section 92B or section 92E if it is satisfied that they are trivial, frivolous, or vexatious or are not brought in good faith.

[30] Our reasons are:

[30.1] Without proper basis to do so, Mr Rafiq has instituted three separate proceedings against the Ministry and then failed to attend the hearing to give evidence in support of his multitudinous allegations.

[30.2] His statements of claim and statements of evidence are, as mentioned, largely incoherent and should be categorised as unintelligible. See by analogy *Ward v ANZ National Bank Ltd* [2012] NZHC 2347 (12 September 2012) at [20].

[30.3] In his unsworn statement dated 26 March 2012 Mr Rafiq has made threats against Mr Blakemore and Ms Cantlon. In making those threats Mr Rafiq cross-references to his abuse of officers of the Inland Revenue Department. Mr Rafiq's proceedings against the Commissioner of Inland Revenue were heard on 11 April 2012, the day before the hearing of these three proceedings against the Ministry. The repeated, calculated, serious and wholly unjustified attacks which Mr Rafiq has made on virtually all persons within Inland Revenue who have had dealings with him were described in the Tribunal's decision given in *Rafiq v Commissioner of Inland Revenue* [2012] NZHRRT 12 (23 May 2012) at [49]. The abuse and threats directed at Mr Blakemore and Ms Cantlon replicate those made against officers of the Inland Revenue.

[31] We have no hesitation in concluding that these three proceedings are properly described, for the purposes of s 115 of the Act, as vexatious or not brought in good faith.

DECISION

[32] For the foregoing reasons the decision of the Tribunal is that:

[32.1] No interference with the privacy of Mr Rafiq has been established either in relation to information privacy Principle 6 or in relation to Principle 7.

[32.2] All three proceedings commenced by Mr Rafiq are dismissed.

[32.3] Costs are reserved.

Costs

[33] Any application for costs will be dealt with according to the following timetable:

[33.1] Any application is to be filed and served, along with any submissions or other materials put forward in support of the application, within 28 days after this decision is issued to the parties.

[33.2] Any notice of opposition to the making of an award of costs is to be filed and served, along with any submissions or other materials put forward in opposition to the application, within a further 28 days.

[33.3] The Tribunal will then determine the issue of costs on the basis of the papers that will by then have been filed and served and without any further oral hearing.

[33.4] In case it should prove necessary, we leave it to the Chairperson of the Tribunal to vary the foregoing timetable.

.....	.....	.....
Mr RPG Haines QC	**Dr SJ Hickey**	**Dr AD Trlin**
Chairperson	**Member**	**Member**