

Summary report into a breach of privacy relating to correspondence from the Historic Claims Team at the Ministry of Social Development on 25 May 2015

Andrew Royle

12 June 2015

To: Brendan Boyle, Chief Executive, Ministry of Social Development

From: Andrew Royle

Date: 12 June 2015

Summary Report

1. Over recent weeks the Historic Claims team of MSD has launched the Two Path Approach for Historic Claims. It will provide an option of speedy resolution of claims of abuse that occurred to children and young people in the care of MSD's predecessor departments.
2. The Two Path Approach process requires a large number of letters to be sent to claimants, including letters of offer which contain a proposed sum to resolve a claimant's claim.
3. On 2 June 2015 a claimant (Claimant A) approached MSD to advise that she had received, along with her own offer, a letter intended for another claimant (Claimant B). MSD apologised to Claimant A and asked that she return the information, which has now occurred. MSD has since also apologised to Claimant B.
4. In addition, media reports on 2 June and 3 June 2015 suggested that there might have been other incidents relating to the Two Path Approach, or historic claims files more generally. In particular, an initial media approach to MSD (not subsequently published or reported publicly) attributed comments to Ms Sonja Cooper, the lawyer for a number of historic claimants. Those comments suggested that her firm had received material about the wrong person "*a number of times in recent weeks*", and that she had been obliged to destroy the material and report the issue to MSD. In Ms Cooper's subsequent public comments, she did not refer to these specific allegations.
5. My terms of reference required me to investigate and report on:
 - A the circumstances and causes of the identified privacy breach that arose in part of the Ministry's Two Path Approach, and to make any recommendations for actions necessary to prevent further breaches; and
 - B the allegations attributed to Ms Cooper, to ascertain whether, in 2015, the Ministry sent her information relating to the wrong Claimant and if so, report on the circumstances and causes of those events and to make any necessary recommendation for actions necessary to prevent further breaches.

6. This summary report contains my key findings and recommendations.
7. I spoke directly to Ms Cooper at an early stage in this investigation. Contrary to the statements attributed to her, she is not aware of any recent breaches due to the provision of personal information to her or her firm in error. She advised that these types of events have occurred historically (i.e. over her time in practice), and had been appropriately dealt with at those times by destruction or return of the information. Investigation of such historic matters is outside my terms of reference.
8. I did not identify any other instances of a privacy breach from the Two Path process by material being sent in error to the wrong person. From the evidence I obtained, the recent identified breach appears to be an isolated incident.
9. I was able to identify the cause of the breach with a reasonable degree of confidence. The primary reason for that confidence was the high level of engagement by all MSD staff members concerned, who were extremely open about their involvement, and keen to engage with me to ensure that any necessary lessons are learnt.
10. All people involved in the process also understood the sensitivity of the information they were handling. This error did not arise due to any lack of recognition that the letter of offers contained material of very private nature. Those involved in the process are all mortified about the mistake.
11. In summary, the privacy breach came about as follows:
 - Late in the afternoon on 25 May 2015, a staff member I have identified took a bundle of sealed, addressed envelopes containing offers to claimants to the MSD mailroom;
 - One envelope in the bundle was not yet addressed, as a courier label was required for the envelope;
 - The staff member was in a hurry to ensure that the envelope could be sent that day;
 - The wrong claimant's details were provided to, or used by, MSD mailroom staff to prepare the label. (The two claimants concerned share a similar first name, which may have led to the error);
 - No check appears to have been performed before the label was attached to the envelope, and sent.

12. The error appears to have been made due to a combination of factors:
- A decision had been made the previous week to commence the mail out, even though resourcing was not yet in place to support it. A further decision was taken to increase the volume of mail being sent out just before the error was made;
 - Pre-planning for the project was generally comprehensive, and the risk of human error occurring in the mail out was specifically identified by the project. However, there was insufficient planning for this specific operational part of the project; and
 - Checks had been put in place to ensure quality, and to mitigate against human error. However, those checks were not sufficient to prevent this particular event occurring. A checklist of steps that had to be undertaken in preparing the envelope did not expressly require the addresses on the envelope and the letter to be compared prior to the envelope being sealed.
13. From my discussions with those responsible for governing the project, I gained a clear impression that there was no particular need for high volumes of offers to be sent at this point in the process. The mail out could have proceeded at a slower rate, or been delayed for a short time until resources were made available.
14. However, it was also reported to me that the team responsible for the mail out received a contrary message that a high volume of delivery was desirable.
15. The perceptions of the team responsible for the mail out regarding the expectations for delivery, along with their own desire to deliver a fast service to claimants (compounded by concerns over earlier delays to the start of the mail out), led to the team attempting to send too many letters on 25 May. Trying to send too many letters contributed to the error being made.

Recommendations

Process recommendations

16. Only a small number of offers remain to be made. While the risk of human error can never be entirely removed, my view is that the process can safely be restarted with these basic additional steps:
- Immediately prior to sealing the envelope, the envelope name and address and letter of offer inside must be checked to ensure consistency.

- This last stage test should be undertaken by a staff member that has not been involved in the process, and should be noted on the checklist.
 - Notwithstanding that only a small number of offers remain, the team responsible for the mail out should nonetheless set a clear internal deadline for completion of all envelopes (e.g. 3.45pm).
 - At the internal deadline, any envelopes uncompleted should be removed from the immediate work area and securely stored, to be processed the following day.
 - At the end of each day, the accountable managers should agree a realistic number of envelopes that can be sent the following day, based on recent practice, and resourcing availability for the following day.
17. Whilst it does not appear to have been a direct issue in this case, the project team should also avoid adding additional claimants to the list of offers to be sent during the day.
18. The process would be less complex if the team responsible for the mail out had a printer that could print courier labels. This step may not be practical in light of the small remaining number of offers to be made, but it should be considered further before any future mass mail outs are undertaken by this team.

Review recommendations

19. As noted above, this incident appears to have been an isolated, and it has occurred in a new and temporary process within MSD. However, there would still be value in the governance group for the Two Path Approach reviewing:
- the project planning approach that was taken in this case to identify why insufficient specific planning for the mail out occurred; and
 - the communications that occurred to and from the responsible team, in relation to expectations of volumes of delivery, to identify why there was a perception in the team that a high volume of delivery was required.
20. In both cases, there may be lessons to be learnt for future MSD project design and delivery.