

Factsheet: Compensation for embarrassment or humiliation due to privacy breach

We can consider a claim for compensation because of embarrassment or humiliation caused by a privacy breach.

This is separate from claims for:

- financial loss
- unusual amounts of inconvenience, including time taken to resolve a situation, or interference with expectation of enjoyment or peace of mind that has occurred because of the action or inaction of a telco.

When will we consider a claim for non-financial loss relating to privacy rights?

We will consider a claim where a telco has breached an obligation under the Privacy Act 1988. This includes breaches of the Australian Privacy Principles, and credit reporting rules.

Who can make a claim?

We can only consider non-financial loss claims relating to privacy rights from individuals. We cannot consider claims from businesses or representatives of deceased estates. This is because the Privacy Act only covers personal information of living individuals.

How we assess claims

We assess claims by determining:

- if there was a breach of privacy
- the impact the breach had on you
- if compensation is the appropriate way to resolve the complaint.

We might consider alternatives to compensation

We might decide instead of paying compensation, the telco should apologise or take some other action. For example, correcting the personal information it holds about you.

We have guiding principles to decide how much compensation is appropriate

If we think a telco should pay compensation, we follow these principles to suggest how much the telco should pay.

Any compensation for non-financial loss will:

- reflect the individual circumstances of the complaint
- not be punitive nor tokenistic
- be fair and reasonable.

For privacy breaches, we can award up to \$100,000.

Our decisions are guided by cases decided by the Office of the Australian Information Commissioner, other external dispute resolution schemes, and the courts.

We do not consider any of the following:

- time spent and costs of making a complaint to the Telecommunications Industry Ombudsman
- loss of business reputation
- compensation to punish a telco.