
Private Sector Libraries and Privacy

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In December 2001, an amendment to the Commonwealth's Privacy Act 1988 came into force. This amendment extended to the private sector, privacy requirements which had previously applied to the public sector only. These requirements govern the ways in which private sector organisations collect, manage and disclose personal information relating to individuals.

There has been some concern in the private sector as to the nature of the requirements and their implementation. However, private sector librarians should not be unduly alarmed for the requirements are clear - they are not difficult to comply with - and, in the event of a complaint, negotiation must occur between the complainant and the institution. So there is every opportunity to correct the problem and prevent further escalation of the issue

I would therefore suggest that this matter be turned into a positive, and that compliance with the privacy legislation be used to show that your institution is client focussed and ethical.

In this article I plan firstly to look at the background to the privacy legislation and propose ways of seeing the legislation and its requirements in context. Then I'll look at what various writers have suggested in terms of compliance, and conclude with particular issues relating to libraries. This is not in any way to be construed as my giving legal advice. I am not qualified to give legal advice. Sources which I have consulted are listed below and I would advise readers to consult these sources and form their own views.

Background

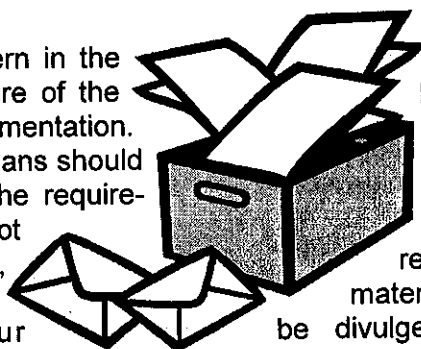
The concept of a right of privacy is not

new. It was first legally enunciated in the Universal Declaration of Human Rights in 1948. This was reinforced in the International Covenant on Civil and Political Rights 1976, and is consequently now considered a basic human right.

There was not much general interest or pressure in the area till the 1990's with the extensive developments of electronic communications. Now there are vast databases holding personal and financial information about people. These can be targeted by hackers, or staff of the institution can make mistakes resulting in large bodies of material, which was not meant to be divulged, getting into the public arena. This has forced many governments to adopt privacy legislation.

Overseas pressures to protect private information and as a spin off to protect business, have had their effect. The voice of commercial interests has been heard. The European Union, a range of Asian countries, UK, USA and NZ all have privacy laws in place now. As part of that legislative framework, they will only deal with (that is, trade with) countries which have similar privacy laws. In order to keep trading and to participate in the global arena, Australia had to introduce its own privacy laws.

Consumer demand has also had an effect. Opinion polls show that the general public are now very concerned about their privacy. A major opinion research project conducted by IBM in the US, UK and Germany in 1999 showed that concern about threats to personal privacy are greatest in relation to the Internet and range from 73% being very concerned in UK to 92% being very



concerned in the US. Privacy concerns affect the commercial behavior of consumers.

Government initiatives also lead to an increase in electronic information. All Australian governments, both state and federal are now dedicated to e-Government, because of the cost savings and improved services to remote areas which are possible.

These are the pressures which have forced the Australian government to enact this legislation, and as it has to be of broad general application, institutions like libraries are caught up in it, even though in most cases there would not be a major threat to privacy of individuals from any of the library's activities.

Who must comply

The Act applies to organisations – individuals, corporate bodies, partnerships and unincorporated associations which have an annual turnover of \$3m or more. So I would suggest that in the context of a theological library, it would be your parent institution, school, church, college which would be primarily responsible. That parent institution would need to meet with this \$3m requirement.

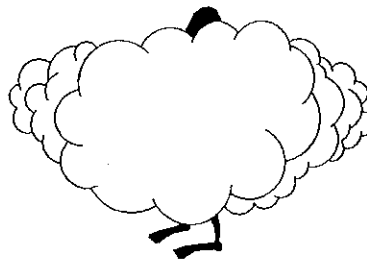
Basically what one needs to do to comply is to have a publicly available privacy code which is registered with the Privacy Commissioner's Office, or else to ensure that one's business is carried on in accordance with the National Privacy Principles. The Privacy Commissioner's website contains much useful information on compliance.

The ten National Privacy Principles which must be observed are summarized below.

National Privacy Principles

1. Collection – The information must be necessary for the purposes of your organisation's operation and collected with consent of the customer or patron.

2. Use – The information must only be used or disclosed for its original purpose.
3. Accuracy – The organisation must ensure that private information is accurate, complete and current.
4. Security – Misuse, loss and unauthorised access must be prevented by the organisation. The private information must be destroyed when no longer required.
5. Openness – The organisation should document its information management practices and make this information available on request.
6. Access and Correction rights – Generally, individuals should have access to their private information and the organisation should allow correction.
7. Government identifiers – Organisations must not use (eg) driver's licence or tax file numbers as identifiers of clients or patrons.
8. Anonymity – Anonymous dealings should be allowed where reasonable and practical.
9. Trans-border data flows – Personal information should only be transferred to those countries where similar privacy laws are in place.
10. Sensitive information – This requires a higher level of compliance and may be collected only with the specific consent of the client or patron.



Information as to health, religious or political beliefs or affiliations and sexual preference is sensitive information.

What information is affected?

It is "personal information" which is affected. In the library context, it is the patron or borrower files which would be most relevant. Names are not regarded as personal, but addresses, phone numbers, email addresses would be personal information in this context.

Special protection is given to sensitive

information – and in the context of a theological library you might have to take special measures with regard to information relating to religious affiliations or beliefs. Also I understand that in some libraries there are collections relating to indigenous issues. Make sure that any requirements specified by indigenous communities are adhered to and that this is documented.

Where to now?

I would suggest the following course of action:

1. Consider whether your parent institution is a private sector organisation.
2. If it is, does it have an annual turnover of \$3m or more?
3. From above, determine whether the legislation applies to you.
4. If you think it does, ascertain whether your parent institution has or plans a Privacy Code.
5. If a Privacy Code is not envisaged, line up all your procedures for handling personal information against the National Privacy Principles.
6. Put in place procedures which are in accordance with the principles.
7. Ensure that the procedures are documented and that staff are trained in relation to the procedures. Have records of the staff training.

Particular areas of concern for libraries

The patron or client file is the most obvious one for most libraries to watch in terms of personal privacy issues. Make sure that all staff that have access to the patron file are trained in terms of privacy requirements, even temporary or casual staff. Have documentation to prove this. Also ensure that checkout terminal screens are placed in such a way that personal information, relating to other patrons might not be accidentally seen by other patrons at checkout.

When patrons have the opportunity to check their own file, e.g for demerit points

or to check on 'holds', some of them tend to wander off leaving their personal files open at a public terminal. This could result in personal information being seen by others. Add a note on the screen saying "remember to close your file" Also have an automatic time out.

Other information which we have on our patron files which might be regarded as personal are records relating to individuals with disabilities. Notes concerning disciplinary matters would also fall into that category. Take steps to ensure that this type of information is subject to appropriate safeguards.



The operation of archives in private sector libraries may be affected by the new legislation. The Australian Society of Archivists made a submission to the Federal Privacy Commissioner when the draft legislation was being considered. They were concerned that the new privacy regime will seriously impair the ability of archives in Australia to collect, preserve and make available documentation of Australian life in the 21st Century.

They had three alternative recommendations:

1. Exemption of archival programs from the National Privacy Principles.
2. Privacy Guidelines could have a sunset clause.
3. A separate privacy code for archival institutions be set in place.

On looking at the Act I can't see that their arguments were successful .

In conclusion

A requirement for the preservation of personal privacy is certainly here to stay. It is part of a global movement. There are clear ways of determining whether or not the legislation applies to your workplace and further clear guidelines about what actions are necessary.

The National Privacy Principles outline what is best practice, and compliance should not be difficult. Indeed, compliance can be seen as a plus in terms of customer service and ethical practice.

References

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FINAL CHAPTER FOR THE LEAD MINERS' BEDROOM LIBRARY

Britain's oldest subscription library, established in the 18th century to educate lead miners and their families, has closed after being unused for at least three years. The unique collection of around 3,000 books was kept on shelves in the bedroom of a modest terrace cottage in a remote County Durham village. The collection was set up in 1788 as the lead mining community's thirst for knowledge grew. At first it moved around the homes of miners in rotation before being permanently housed at the cottage, which was bought by public subscription in 1839 at Front street, Westgate, Weardale.

The custodian, Mrs Florence Hodgson, has dusted and tended the volumes for more than 55 years, opening her home every fourth Saturday at 2 p.m. to give access. She said, "I think my favourite book is East Lynne, written by Mrs Henry Wood in the 1860s. It is a wonderful read."

When the library began, books about Methodism were the most popular, as the new religion arrived in the dale. Victorian romances took over for a time and by the 1950s Westerns were popular. During its heyday in the 1930s, the library had up to 300 members and, until a few years ago, it took three desks to cope with the customers.

One of the "house rules for readers", drawn up in January 1788, has been "If sickness strikes a family, volumes 25 and 43 (Wesley's *Primitive Physic* and Buchan's *Domestic Medicine*) can be borrowed free of charge."
Paul Stokes.