

The Changes to the Privacy Act and Boarding Residences

The changes to the privacy act are **not just a few word changes, but a whole new approach to privacy in Australia**. Boarding providers should be aware that the new changes will either affect their operation now, or will affect them in the future. Residence providers need to understand the privacy legislation, and how they can be compliant. (Please note that this material is general in nature and intended to inform the boarding community. Every boarding residence is different and providers should seek advice specific for their circumstance.)

Some facts;

- A long time in the making, the reform process began in 2004, the act passed parliament in 2012, and came into effect on **March 12th 2014**,
- The changes deal with how personal information is handled, used and stored,
- This new change is an amendment to the Privacy Act 1988.
- There are 13 new Australian Privacy Principles (APPs).
- These apply to businesses and government, if they collect or use personal information and have a turnover of more than \$3 million, *(see note below) and also apply to businesses that 'trade in personal information',
- There are fines of up to \$1.7 million,
- The Privacy Commissioner can now investigate where he sees fit, rather than waiting for a complaint as in the past.

*Some boarding providers reading this may think *"great, I don't have to worry about this because we don't generate a turnover of \$3 million"*. This is a wrong way to deal with this change. Eventually, this will affect every boarding residence for a range of reasons including;

1. Residences share information with organisations (such as schools, education departments etc),

2. Eventually residence turnover will reach this threshold,
3. Boarding residences should be examples of 'good practice' when it comes to use of personal information.
4. Parents and other stakeholders (funding bodies) will want to be assured that the residence conforms with national legislation

So what can you do?

Get informed

Make sure you are fully informed about the changes, what the changes mean and how they apply to your residence. The best place for information is the official site which is the 'Office of the Australian Information Commissioner' (www.oaic.gov.au) and there are lots of other sites on the internet providing advice and information. This is very helpful, especially where there is uncertainty about how the legislation will actually be applied. If your residence is affiliated with support organisations, such as Associations of Independent Schools in each State or Territory, it will have developed information to support their sector.

Do a 'personal information' audit on your residence

Find out exactly what personal information is being collected, how it is collected, who has access to the information, how it is being used in the organization, if it is being shared with other organisations (or government), what parents and other stakeholders know about how you use and manage personal information, how the information is being stored, how you ensure accuracy of the information and what happens to the information when the students leave. Once you have carried out a detailed 'personal information' audit, you will be in a better position for the next step.

Develop an organisation policy

This is where you will need professional guidance because each residence is different and there is no 'one size fits all' approach to developing your policy. One way to do this may be to take an existing compliant policy, amend it to suit your residence, and then

have the policy reviewed by a professional. It is important that the policy is easy to read and understand and not a document full of dense legal words and phrases that no-one will willingly read.

Policy awareness

Once you have a policy that is compliant with the new amendment, and fits your residence, you need to make sure that all of the stakeholders are aware of the policy. It should be on your website and available in both soft and hard copies so that anybody wanting the policy can see it and have a copy. Your primary stakeholders should be provided with a copy.

Train your staff

Make sure that all staff members know the residence policy on collecting, storing and using personal information. Staff should know how the policy translates into practices that will ensure that your residence is always compliant with the act. This is not just a reading of the organisation policy at a staff meeting after a long day where everyone is tired and uninterested. What is required is professional development that addresses the act and all the practices that your residence uses to conform to the act.

Develop an evaluation process

You need a way of regularly checking to make sure that your practice in the residence conforms to your residence 'personal information' policy. You could do this with regular checks or mini audits, and/or regular standing items in meetings. All new staff should be properly trained or inducted so that they are aware of the policy and how it relates to practice. Make sure that you document both the process and the evaluation practice so that there is an 'audit trail' as evidence that you have good processes in place to be compliant.

Summary of the 13 Australian Privacy Principles

Part 1 — Consideration of personal information privacy

Australian Privacy Principle 1 — open and transparent management of personal information

Australian Privacy Principle 2 — anonymity and pseudonymity

Part 2 — Collection of personal information

Australian Privacy Principle 3 — collection of solicited personal information

Australian Privacy Principle 4 — dealing with unsolicited personal information

Australian Privacy Principle 5 — notification of the collection of personal information

Part 3 — Dealing with personal information

Australian Privacy Principle 6 — use or disclosure of personal information

Australian Privacy Principle 7 — direct marketing

Australian Privacy Principle 8 — cross-border disclosure of personal information

Australian Privacy Principle 9 — adoption, use or disclosure of government related identifiers

Part 4 — Integrity of personal information

Australian Privacy Principle 10 — quality of personal information

Australian Privacy Principle 11 — security of personal information

Part 5 — Access to, and correction of, personal information

Australian Privacy Principle 12 — access to personal information

Australian Privacy Principle 13 — correction of personal information