

## Privacy Legislation

### Introduction

The Privacy (Private Sector) Amendment Act 2000 came into force on 21st December 2001 and extends provisions that previously applied to Government and Credit providers by establishing a set of 10 privacy principles (National Privacy Principles) which provide for a minimum standard of privacy protection.

### Overview

In summary these National Privacy Principles (NPP's):

1. Set out rules relating to the collection, use, disclosure, quality and security of personal information collected.
1. Require organizations to be open about their information handling policies.
1. Grant individuals the right to access personal information an organization holds on them and to deal anonymously with organizations where possible.
1. Require organizations to take steps to ensure personal information held on an individual is accurate, complete and up to date and that it's security is maintained.
1. Limit the transfer of information to organizations outside Australia to those in countries or circumstances that can guarantee the same privacy rights as they have in Australia.
1. Require a higher standard of protection for the collection and use of "sensitive" information including health information.

### What is Personal Information?

Personal Information means information or an opinion whether true or not, whether recorded in a material form or not, about an individual whose identity is apparent or can be reasonably ascertained. Personal information can range from very sensitive information (eg. political beliefs, medical history, sexual preference) to the everyday information such as hair colour, address and phone number etc.

It doesn't matter how the information is held or whether it is accurate; if the information the makes it clear to whom it relates, then it falls under the provisions of the legislation.

### To Whom does the Legislation apply?

The legislation only applies to all organizations with a turnover in excess of \$3 million and also to those organizations below this threshold who:

1. are related (as defined in the Corporation law) to an organization with an annual turnover in excess of \$3 million.
2. elect to opt in.
3. provide a health service and hold health information.
4. disclose personal information about another individual to any one else for a benefit, service or advantage
5. are a contracted service provider to the Commonwealth Government.

This means that for the majority of churches, the legislation will not apply.

The only area where a local church may be caught under the provisions of the legislation is where the church may be deemed to be providing a health service (i.e. a counselling service)

This is because the Health Sector guidelines refer to mental as well as physical health.

A Health Service is defined as:

1. an activity performed in relation to an individual that is intended or claimed (expressly or otherwise) by the individual performing it:
  - (i) to assess, record, maintain, or improve an individuals health; or
  - (ii) to diagnose the individuals illness or disability; or
  - (iii) to treat the individuals illness or disability or suspected illness or disability; or
- the dispensing on prescription of a drug or medicinal preparation by a pharmacist.

Legal advice indicates that the provision of counselling services in the context of usual Pastoral care does not involve the provision of a health service. However the provision of counselling services in a more intentional way through separate advertised or promoted counselling services may constitute a health service and the minister/counsellor providing such counselling services in such a context may be providing a health service under the Act.

Where the church therefore has such a formalised counselling ministry where health information is collected, legal advice suggests the provisions of the Act may apply and the legislation will apply to the whole of the church's activities.

In this regard the church should to have the following:

### **1. Collection Statements**

These statements (both general and specific to the counselling ministry) are to be made available to individuals when taking down personal information.

### **2. Openness Statement**

This statement can be displayed in the office or similar where regular counselling takes place. Alternatively it can be printed in the form of a brochure.

### **3. Privacy Policy**

This is the policy which sets out how the local church will deal with personal information collected in the course of providing counselling services.

Samples of appropriate documentation can be obtained by contacting the Director - Administrative services.

This introduction of the privacy legislation is deliberately brief as it will not affect the majority of our churches. If however you do have a formal counselling service as part of your church activities, please contact the Director - Administrative Services on 3254 2685 to discuss your situation.

SAMPLE PRIVACY STATEMENTS FOR CHURCHES

**COLLECTION STATEMENT—General**

The National Privacy Principles (NPP) set out in the Privacy Act 1988 (Cwlth) apply to [Church name] from 21 December 2001.

We collect personal information from you for the purpose of maintaining our records/database about members and affiliated people so we can provide services to you.

If you provide incomplete or inaccurate information is provided, we may not be able to provide efficient services to you.

The Privacy Act allows you to have access to and correct records of personal information held by us.

If you wish to make an inquiry or complaint regarding the information we hold about you, you can contact our Privacy Officer who is:

[Church]  
Attention: Privacy Officer  
[Name of Privacy Officer]  
[Address]  
[E-mail Address]  
Telephone/Fax

**OPENESS STATEMENT - For Display or Brochure**

**Your Privacy: Our Policy**

The National Privacy Principles (NPP) set out in the Privacy Act 1988 (Cwlth) apply to [Church name] from 21 December 2001.

We are committed to protecting your privacy and have developed a policy to protect your privacy in compliance with the privacy legislation.

Our policy informs you:

1. That we need your consent to collect information about you
2. Why we need to collect your information
3. How your information will be held by us and to whom we may need to disclose it
4. That you may request access to the information and discuss any concern you may have about how we handle your information

If you would like to obtain further information on our privacy policy, you can contact our Privacy Officer who is:

[Name of Privacy Officer]  
[Church]  
[E-mail Address]  
Telephone/Fax

## COLLECTION STATEMENT— Local Church Counselling

The National Privacy Principles (NPP) set out in the Privacy Act 1988 (Cwlth) apply to [Church name] from 21 December 2001.

We are committed to protecting the privacy of the individual who has provided personal information to us during his or her contact with us.

Our church collects and stores personal information in the course of providing counselling services to you. The collection is necessary for us to provide the services to you and the personal information collected will only be used or disclosed for purposes directly related to the provision of the counselling services.

Our Minister and/or Counsellor may share the information with other Ministers and/or Counsellors in the course of providing the counselling services to you.

If you wish to make an inquiry or complaint regarding the way in which we handle your personal information you can do so by writing, telephoning, faxing us or by sending e-mail. You can access your personal information by contacting our Privacy Officer who is:

[Church]

Attention: Privacy Officer

[Name of Privacy Officer]

[Address]

[E-mail Address]

Telephone/Fax

Our Privacy Officer will take all reasonable steps to answer any queries.

## PRIVACY POLICY - [Church name]

### 1. Collection of Personal Information

[Church name] will take reasonable steps at or before the time (or, if this is not practicable, as soon as practicable thereafter) of collection of personal information to ensure the individual is aware of:

5. the identity of the [Church name] and our contact details; and
1. the fact that he or she is able to gain access to the personal information; and
1. the purpose for which the information is collected; and
1. the organisations (or types of organisations) to which the [Church name] typically discloses information of that kind;

1. any law that requires the particular information to be collected; and
2. the main consequences (if any) for the individual if all or part of the information is not provided.

## **2. Providing our organisation's identity and contact details**

Whenever personal information is requested from our customers, we will identify the name of our organisation and provide our contact details, including our street address, postal address, telephone and facsimile numbers, as well as our e-mail and internet address where appropriate.

## **3. Access to personal information**

The [Church name] will, whenever personal information is collected, make the individual aware of the fact that he or she is able to gain access to their personal information. The [Church name] will provide details of how an individual should go about requesting access.

The [Church name] will respond to a request for access, as soon as possible, and in any case a maximum of 30 days.

There is no charge for requesting access to your personal information. However, there may be a small charge for access to personal information provided.

## **4. Purpose of collecting personal information**

The [Church name] will give information about the primary purpose for which personal information is collected. Any secondary purposes that would not be within the reasonable expectations of the individual or allowed or required by law will also be communicated.

## **5. Data Quality and Security**

The [Church name] will take reasonable steps to make sure that personal information it collects, uses or discloses is accurate, complete and up to date and that reasonable steps are taken to protect personal information (in hard copy or electronic format) from unauthorised access, modification or disclosure.

## **6. Awareness of disclosures to other organisations**

The [Church name] will list all organisations, if any, that our customer's personal information will be disclosed to. If this approach is impracticable, the [Church name] will instead list the types of organisations to which personal information may be disclosed.

## **7. Awareness of legal obligations to provide or collect information**

The [Church name] will make an individual aware of any legal obligation requiring the individual to provide particular personal information. Likewise, the [Church name] will make an individual aware of any legal obligation that exists requiring our organisation to collect personal information in a particular situation. Where possible, the [Church name] will identify the appropriate piece of legislation imposing the obligation.

## **8. Awareness of the consequences of not providing the requested information**

The [Church name] will identify any direct consequences of an individual not providing the requested personal information. The essential items of information required to fulfil the purpose of the collection will be made clear to the individual.