

THE PRIVACY ACT AND HUMAN RIGHTS ACT

The Privacy Act

In the Privacy Act, the full requirements concerning collection of personal information are set out in Principles 1-4.

Each organization must appoint an officer as a Privacy Commissioner. This person is responsible for keeping records safe whether in a database or filing cabinet.

Principle 1 provides that information may only be collected by an agency if it is collected for lawful purposes. Organizations should ask:

- Why do we ask this question?
- What use do we make of this information?

A Society will usually have a valid reason in asking for a person's contact details e.g. for the purpose of collecting membership fees and/or for compiling a contact list. The range of information collected by a society will depend on its functions and activities. For instance, some service organizations, in order to perform effectively, may require sensitive information about individuals, e.g.. a group providing assistance for people with physical disabilities will need to know the individual's disability, and the kind of assistance needed, so that it can provide appropriate help.

Principle 3 requires societies to take reasonable steps to ensure that the individual is aware of certain matters when information is collected directly from that person. These steps must be taken unless that is not practicable before the information is collected. These include:

- the fact that information is being collected; and the purpose for which the information is being collected;
- the intended recipients of the information;
- the name and address of the agency collecting and the agency holding the information;
- the consequences if any, of not providing the information;
- the rights of access to and correction of personal information.

Societies should make their information practices clear to the members. For instance, if a society uses circulated contact lists, members should be informed of this before they give their personal details. Societies should consider whether they will allow members the option of not being on this circulated list.

If a form is used to collect details, it should include a box to be ticked if the individual agrees to have his or her details used for this list. Societies may also wish to pass the details to a regional or national body, or to publish them in a directory, and again this should be made clear.

Members should be given the opportunity to keep their details private if publication is not essential for membership.

Use and disclosure

It may be desirable in some situations to disclose information about members, to other members of society or even to an outside organisation. This is possible, provided that one of the exceptions contained in principle 11 permits the disclosure, e.g. that the person concerned authorises the disclosure.

There is no restriction on the use of information which was obtained before 1st July 1993. If you are disclosing information gathered prior to that date, you should however, receive permission from the person involved.

MEMBERSHIP LISTS

If membership lists or directories are distributed to members, a notice should be included, that the information is for society membership only and may not be used for any other purpose such as direct marketing or for soliciting donations to other organisations.

MINUTES OF MEETING

If minutes contain information about an individual, that person may view the information before publication.

HUMAN RIGHTS ACT 1993

AN INTRODUCTION

The Human Rights Act 1993 provides greater protection for people facing discrimination. Its intention is to ensure people are treated fairly in a number of areas of public life. If you believe you have been discriminated against, you can ask the Human Rights Commission for assistance.

PROTECTION AGAINST DISCRIMINATION FOR PEOPLE WITH DISABILITIES

From 1 February 1994 discrimination based on disability is unlawful under the Human Rights Act 1993. Those who feel they have been discriminated against will be able to complain to the Human Rights Commission.

WHAT IS UNLAWFUL DISCRIMINATION?

- Discrimination is to treat in the same circumstances, someone with a disability less favorably than someone without.
- It's not unlawful to treat people with a disability differently if the intention is to ensure that their special needs are met.

From 1 February 1994, protection against discrimination was increased. Previously it was unlawful to discriminate against someone on the grounds of sex, marital status, religious or ethical belief, race, colour, ethnic or national origins, and age (in employment). Added grounds now include: disability opinion, employment status, family status, and sexual orientation. There is also greater coverage of age.

PROTECTION AGAINST DISCRIMINATION ON THE GROUNDS OF SEXUAL ORIENTATION

The Human Rights Act 1993 makes it unlawful to discriminate, either directly or indirectly, against a person on the grounds of their sexual orientation. This applies in the areas of employment, access to public places, provision of goods and services, accommodation and educational facilities.

Sexual orientation is defined as a heterosexual, homosexual, lesbian or bisexual. Relatives or associates are also protected against discrimination.

Direct discrimination

This occurs when a person of one particular sexual orientation is treated less favourably than a person of another sexual orientation in the same or similar circumstances. This also occurs if a person is discriminated against on the presumption of a particular sexual orientation.

Discrimination on the grounds of aids or HIV infection

The Human Rights Act protect those who have AIDS or HIV infection from discrimination. From 1 February 1994 it has been awful to discriminate against those with an organism in the body capable of causing illness, including those who are HIV positive or who have AIDS. Protection also exists for those who are assumed to be HIV positive or have AIDS. Misconceptions about AIDS have resulted in discrimination against particular groups such as homosexual. The intention of the Act is to ensure that people with a range of disabilities, including physical illness, are treated fairly.

WHAT AREAS OF LIFE ARE COVERED BY THE ACT?

The Human Rights Act protect those with AIDS and HIV infection in the following areas: employment; accommodation; access to public places; provision of goods and services; educational facilities.

Protection against discrimination in accommodation

The Human Rights Act protect people from discrimination in the provision of accommodation. From 1 February 1994 it is unlawful to discriminate against those seeking accommodation on a wide variety of grounds.

Protection against discrimination on the grounds of age

The Human Rights Act 1993 makes it unlawful to discriminate, either directly or indirectly, against a person on the grounds of their age. This applies in the areas of employment, access to public places, provision of goods and services, education and accommodation.

Making a complaint about discrimination

The purpose of the Human Rights Act is to help ensure that people are treated fairly in a number of areas of public life. If you believe you have been discriminated against, you can ask the Human Rights Commission for assistance.

HOW DOES THE COMMISSION RESOLVE A COMPLAINT?

Commission staff work with the parties to reach a settlement. They may call round table meetings, meet people on a one-to-one basis, and negotiate by phone, fax or letter. Settlements are varied, and may include compensation or apology, and an assurance against repetition

WHAT HAPPENS IF A COMPLAINT CANNOT BE RESOLVED?

- Where a settlement cannot be reached, the Proceedings Commissioner decides whether to take your complaint to an independent body called the complaints Review Tribunal. If the Commission has not found substance to your complaint, or the Proceedings Commission decides not to take your matter to the Tribunal, then you can take it there yourself.
- The Tribunal has the power of a Court. It hears the complaint from the beginning and makes a decision. If the decision is in your favour, it can award you damages and order other remedies.

If you would like a list of our other community resources, or to be put on our mailing list, contact us at:



Phone (09) 486-4820

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