Australian Government | TAX PRACTITIONERS BOARD

Privacy and securing personal information

Presented by Debra Anderson, Board member, Tax Practitioners Board

What we will cover today

- ✓ *Privacy Act 1988*
- ✓ What is personal information
- ✓ Information lifecycle
- ✓ Securing personal information
- ✓ Securing tax file numbers
- ✓ Notifiable Data Breaches Scheme
- ✓ Questions

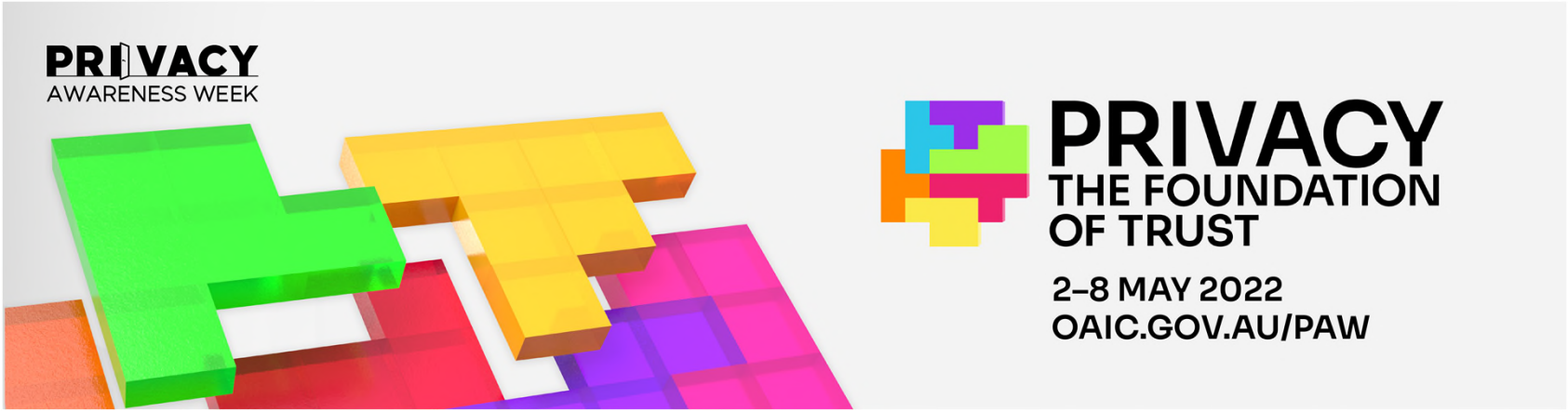
Access the presentation slides : tpb.gov.au/webinar-hub

Meet your presenter

- Debra Anderson
- Board Member
- Tax Practitioners Board

Privacy Awareness Week

- We are proud supporters of Privacy Awareness Week (PAW).
- PAW is an annual event to promote and raise awareness of the importance of protecting personal information.
- It is led by the Office of the Australian Information Commissioner (OAIC).



PRIVACY ACT 1988

Privacy Act 1988

- The *Privacy Act 1988* (Privacy Act) regulates how personal information is handled.
- The Privacy Act includes 13 Australian Privacy Principles (APPs).
- The Privacy Act also regulates the privacy component of:
  - the consumer credit reporting system
  - tax file numbers
  - health and medical research.

Privacy Act

Under the Privacy Act an APP entity must:

- Protect personal information from:
  - theft
  - misuse
  - interference
  - loss
  - unauthorised access
  - modification
  - disclosure.
- Take reasonable steps to destroy or de-identify personal information when it's no longer needed.

What is personal information?

- Personal information is any information where you can reasonably identify an individual.
- It doesn't matter if the information or opinion is true or what form it is recorded in.
- Personal information may include:
  - name
  - address and telephone number
  - date of birth
  - medical records
  - bank details
  - employment details
  - photos and videos.

Reasonably identifiable

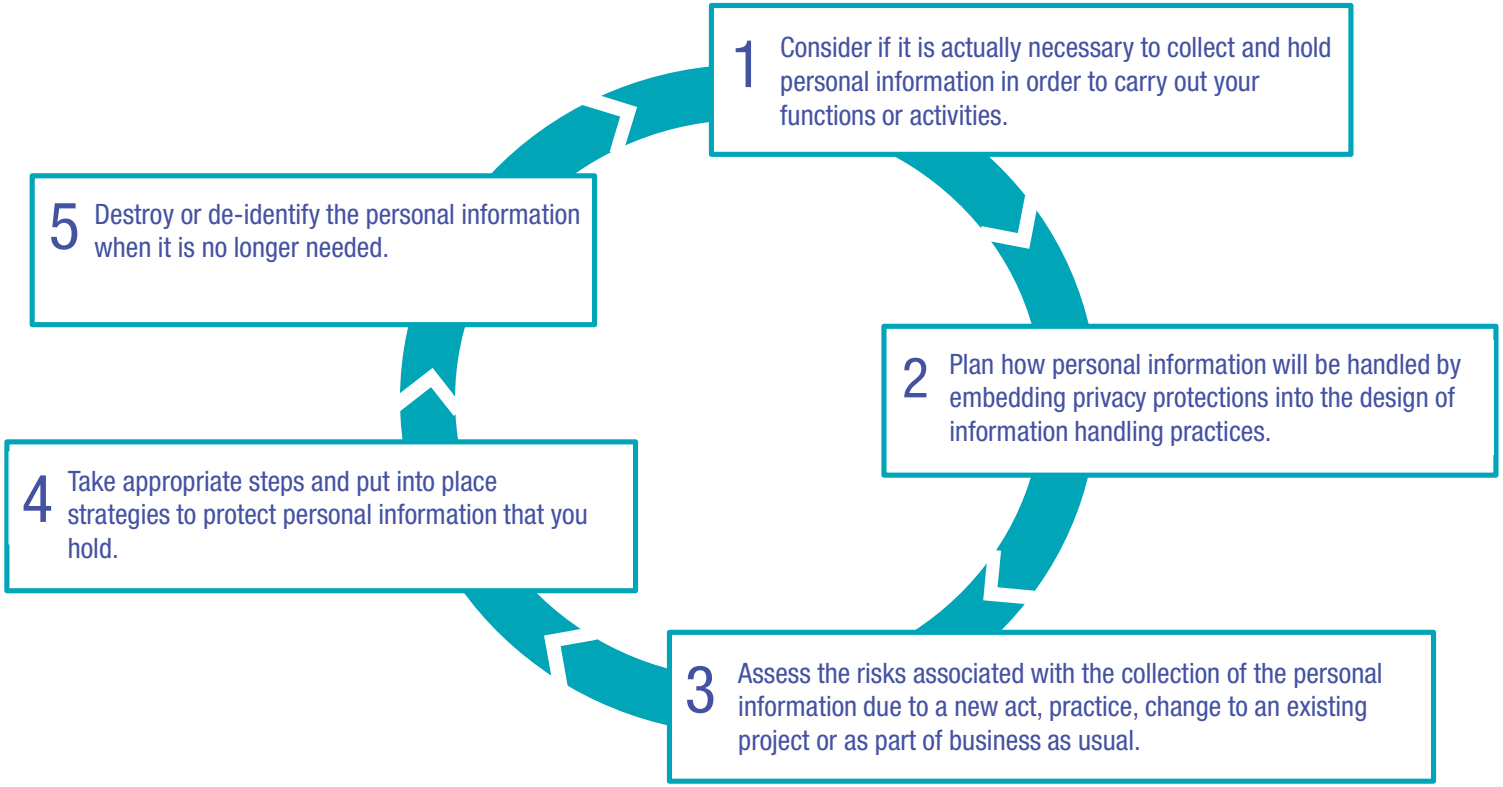
To determine if an individual is ‘reasonably identifiable’ will depend on:

- the nature and amount of information
- the circumstances of its receipt
- who will have access to the information
- other information either held or available
- whether it is possible for the individual or entity that holds the information to identify the individual
- if the information is publicly released.

INFORMATION LIFECYCLE

Information lifecycle

If you handle personal information, you must consider how you will:



1. Consider whether to collect personal information

- The first step in managing the security of personal information is to ask whether the collection of personal information is reasonably necessary to carry out your functions or activities.
- If it is, you should then consider if it should be collected.
- Personal information that is not collected or is not stored can’t be mishandled.

2. Privacy by design

- Privacy should be incorporated into your business planning, staff training, priorities, project objectives and design processes.
- You should design your personal information security measures with the aim to:
  - prevent the misuse, interference, loss or unauthorised accessing, modification or disclosure of personal information
  - detect privacy breaches
  - be ready to respond to potential privacy breaches in a timely and appropriate manner.
- An important element of ‘privacy by design’ is to integrate privacy into your risk management strategies.

3. Assessing the risks

- Assessing the security risks to personal information is also an important element of ‘privacy by design’.
- You can assess your personal information security risks by conducting:
  - a privacy impact assessment (PIA)
  - an information security risk assessment; and
  - regular reviews of your personal information security controls.

3. Assessing the risks

Privacy impact assessment

- A PIA is a written assessment that identifies the privacy impacts of a proposal and sets out recommendations for managing, minimising or eliminating those impacts.
- Generally, a PIA should:
  - describe the personal information flows in a proposal
  - analyse the possible privacy impacts of those flows
  - assess the impact on the privacy of individuals
  - explain how those impacts will be eliminated or minimised.
- A PIA can assist you to identify any personal information security risks and the reasonable steps you could take to protect it.

3. Assessing the risks

Information security risk assessment

- An information security risk assessment is generally more specific than a PIA.
- The findings of a PIA and information security risk assessment should inform the development of your risk management and information security policies, plans and procedures.
- Once the risks have been identified, you should then review your information security controls to determine if they are adequate in mitigating the risks.

3. Assessing the risks

Human error

- Threats to personal information can be internal or external as well as malicious or unintentional.
- Privacy breaches can arise as a result of human activity or events such as natural disasters.
- Human error is regularly claimed as the cause of privacy incidents – entities should assume human error will occur.
- PIAs, information security risk assessments and regular reviews will enable you to design practices, procedures and systems to deal with human error and minimise its effect.

4. Taking appropriate steps

- Once your entity has collected and holds personal information, you need to consider what appropriate security measures are required to protect the personal information.
- This will need to be considered for all of your entity's acts and practices.

Privacy breach example

- An investigation into a business found boxes of unsecured personal records being stored in a garden shed.
- The business advised the Privacy Commissioner that the records were transferred so that renovations of the business could occur.
- The garden shed door was locked with padlocks.
- The Commissioner found the business didn’t take reasonable steps to protect the personal information, some of which was also sensitive information.

5. Destroy or de-identify personal information

- Entities must also take reasonable steps to destroy or de-identify the personal information they hold once it is no longer needed.
- This requirement doesn't apply where the personal information is contained in a 'Commonwealth record' or where the entity is required by law or a court/tribunal order to retain the personal information.
- Destroying or permanently de-identifying personal information that you no longer need is an important risk mitigation strategy.

CIRCUMSTANCES THAT AFFECT ASSESSMENT OF REASONABLE STEPS

Circumstances that affect assessment of reasonable steps

- What qualifies as reasonable steps depends on the circumstances, including:
  - the nature of your entity
  - the amount and sensitivity of the personal information held
  - the possible adverse consequences for an individual in the case of a breach
  - the practical implications of implementing the security measure, including the time and cost involved.

TIPS TO PROTECT PERSONAL INFORMATION

Tips to protect personal information

Don’t leave privacy to chance

- Understand information handling processes and procedures.
- Only collect the information you need.
- Access personal information on a need-to-know basis.
- Keep personal information secure.
- Familiarise yourself with your data breach response plan.

TAX FILE NUMBER SECURITY

Tax file number security

- The TFN Rule regulates the:
  - collection
  - storage
  - use
  - disclosure
  - security; and
  - disposal of individuals' TFN information.

NOTIFIABLE DATA BREACHES SCHEME

Notifiable Data Breaches Scheme

- The Notifiable Data Breaches (NDB) scheme is an amendment to the *Privacy Act 1998*.
- It requires organisations covered by the Act to notify any individuals likely to be at risk of serious harm by a data breach.
- The notice must include recommendations about the steps to be taken.

Complying with the NDB scheme

- Have procedures for assessing a suspected breach.
- Ensure you have procedures and systems in place to secure a client's personal information.
- Be prepared to conduct quick assessments of suspected data breaches.
- Provide training to relevant employees.
- Keep up to date with developments.

What to do in the event of a data breach

If you have experienced a breach you should:

- contact the ATO on 1800 467 033
- advise any of your affected clients
- contact your software provider
- take steps to secure your information
- contact the Office of the Australian Information Commissioner (oaic.gov.au)

HELPFUL RESOURCES

Helpful resources

- The Australian Privacy Principles guidelines.
- The Privacy Regulatory Action Policy.
- Guide to undertaking privacy impact assessments.
- Data breach preparation and response — a guide to managing data breaches.
- Notifiable Data Breaches scheme resources.
- De-identification and the Privacy Act.
- Privacy fact sheet 6: Protecting your tax file number information.

Questions

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