

Current Workplace Issues

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In our Fall 2000 issue of *Workwise* we summarized the nature and purposes of the federal *Personal Information Protection and Electronic Documents Act*. In that article, we explained that the protection of privacy provisions of the *Act*, and in particular the 10 principles comprising the Canadian Standards Association Code, apply to almost all personal information collected, used and disclosed in the course of otherwise private commercial activity in the federally regulated sector, such as banking, railways, airlines, telecommunications, etc. Section 34 of the *Act* provides that as of January 2004 the principles will also apply to all personal information collected, used and disclosed in the course of business activity even when carried on exclusively within a single province, unless the province itself passes "substantially similar" legislation. As observed in our earlier article, the idea is to force the provinces to enact private sector information protection legislation of their own.

Draft privacy legislation is in the works in several provinces and although the particulars remain to be seen, there is much that can be reasonably anticipated. For example, the new statutory regimes will likely address all aspects of collection, use and disclosure of employee or prospective employee personal information including information relating to recruitment, applications, selection, references, labour relations, training, performance evaluation and discipline.

To date, corporate privacy policies have focused mainly on email and internet usage. Until now, comprehensive email and internet usage policies have merely been recommended, but in the future comprehensive privacy policies will likely be required. Furthermore, the scope of these privacy policies will obviously have to expand significantly.

While personal information requirements and practices differ widely between organizations depending on their size and operations, the following privacy quiz can help rate your organization's current personal information protection practices:

1. Does your organization have an existing policy on fair information practices, privacy, or data collection regarding personally identifiable information?
Y N
2. Is the policy publicly available and are individuals informed of its existence?
Y N
3. Is the policy reviewed periodically and updated as needed?
Y N
4. Is there a designated person within the organization accountable for managing the policy and for monitoring compliance?
Y N

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5. Is the identity of this person readily known within the organization and made available to outside parties upon request?

Y N

6. When personal information is collected by your organization, are the reasons for collection identified by the organization in advance, including reasons why each specific item of personal information is necessary?

Y N

7. Is the consent of the individual always obtained when personal information is collected or used for any purpose?

Y N

8. Is the individual informed when personal information will be obtained from third parties as part of an information file?

Y N

9. Is the consent of the individual always obtained before personal information is disclosed to any third party?

Y N

10. Is the consent of the individual always obtained before personal information is used for different purposes than those for which it was collected?

Y N

11. Are decisions concerning an individual always made on the basis of appropriate, up-to-date, accurate personal information?

Y N

12. Are processes in place to ensure the accuracy of personal information and are individuals informed about these processes?

Y N

13. Are formal policies in place concerning the retention of personal information — i.e., how long personal information files will be kept?

Y N

14. Does your organization have procedures in place to ensure personal information is safeguarded?

Y N

15. Are employees trained and regularly updated on these procedures?

Y N

16. Does the organization have a good record in the use of safeguards to prevent inadvertent disclosure of personal information?

Y N

17. When personal information files are transferred to third parties for processing, are safeguards in place to prevent disclosure or unauthorized uses?

Y N

18. Is it easy for individuals to have access to their personal files to update or correct any incomplete or inaccurate information?

Y N

19. Is there a process in place so individuals can challenge the accuracy of information in their files or challenge your organization's compliance with its privacy code?

Y N

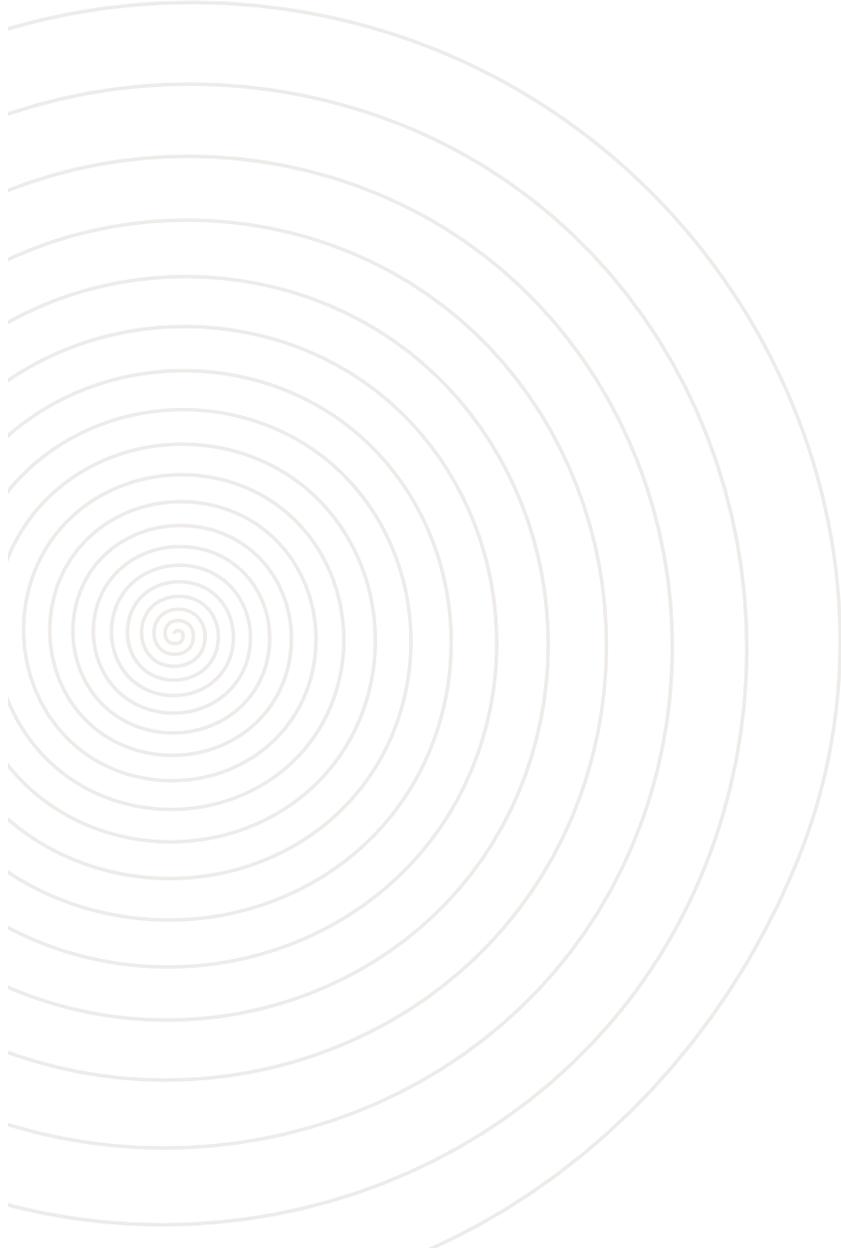
20. Has your organization ever sought external guidance or expert advice on the development, implementation, or auditing of a privacy code?

Y N

In ***A Guide to the Personal Information Protection and Electronic Documents Act*** (Colin H.H. McNairn and Alexander K. Scott, Butterworths Canada Ltd., 2000), the authors note that if you score 14 or more "Yes" answers, your organization is already doing a much better than average job of protecting personal information and you have a solid foundation upon which to implement privacy legislation. If you score between 10 and 14 "Yes" answers, your organization is doing some of the right things but introduction and implementation of privacy legislation will significantly improve your personal information policies and procedures. A score of less than 10 "Yes" answers means your organization could use a detailed review and upgrade of its information protection policies and procedures as they are currently below acceptable industry standards.

There are no hard and fast rules for drafting and

implementing comprehensive information policies and procedures. Requirements vary both with the nature of your organization and with the legislative and regulatory regimes, the specifics of which remain to be seen.



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