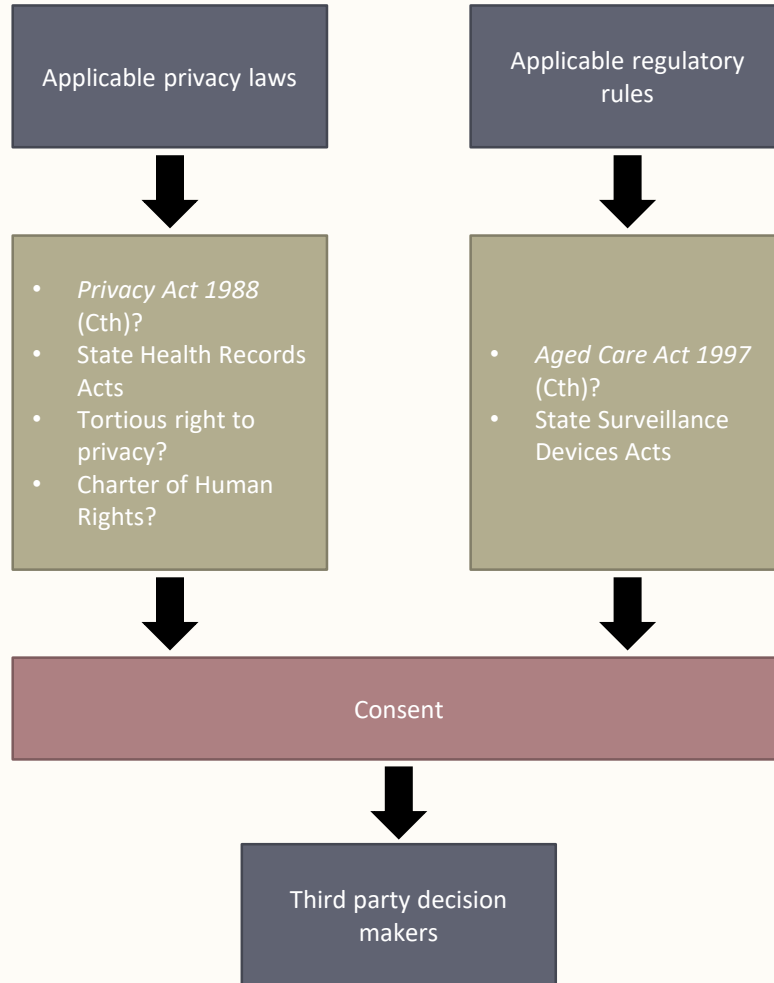




# Privacy Law and Surveillance Devices in Residential Aged Care

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Sophie Andritsos



What needs to be considered?



# Privacy Law





# The Privacy Act and Privacy in Australia

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- It applies to providers of care, but not the decision maker/ family member
- The human right to privacy will likely be taken into account by a Court or Tribunal in these cases
- Unlikely there is currently a tort
- Ultimately providers of care need to be satisfied there is **consent** in order to be compliant with the *Privacy Act 1988* (and any tort that might exist!)

# Issues of Regulation





# Surveillance Device Laws and the Aged Care Act

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- Surveillance Device laws will apply to providers and family members
- It is an offence to surveil **without consent**
- The Aged Care Act provides another basis of a legislative right to personal privacy that providers cannot overlook

# Consent

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Decision makers and consenting to an  
invasion of privacy



# Formally Appointed Decision Makers

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- Type of decision will be personal matters or personal affairs
- Guardian or Enduring Power of Attorney depending on the particular state
- The role of case law
- The role of a Tribunal

# Recommendations

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Questions?

