Policy and Procedure

SWINBURNE UNIVERSITY OF TECHNOLOGY

Name: Privacy

Approved by: Vice Chancellor

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SECTION 1 - INTRODUCTION

PURPOSE

To establish University guidelines, which must be observed by all Swinburne University of Technology ("Swinburne") staff in relation to the collection, use, storage, security and disclosure of personal information, sensitive information and health records.

SCOPE

This policy and procedure applies University-wide excluding Sarawak campus.

DEFINITIONS

NOTE: Privacy Victoria, (the statutory body administering the Information Privacy Act (2000) ("the Act")) have produced guidelines and determinations that clarify the definitions used in the Act and in this Policy http://www.privacy.vic.gov.au/ .

Word/Term	Definition
Compliance Officer	the Compliance Officer will be responsible for the administration of this Policy. Specifically the Compliance Officer will: (i) keep records which are required to be kept under this Policy; (ii) (iii) inform and assist staff with respect to privacy issues.
Personal Information	means information or an opinion (including information or an opinion forming part of a database), whether true or not, recorded in a material form, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.
Sensitive Information	means information or an opinion about an individual's: **(i)** Racial or ethnic origin; or **(ii)** Political opinions; or **(iii)** Membership of a political association; or **(iv)** Religious beliefs or affiliations; or **(v)** Philosophical beliefs; or **(vi)** Membership of a professional or trade association; or **(vii)** Membership of a trade union; or **(viii)** Sexual preferences or practices; or **(ix)** Criminal record; that is also personal information;
Health information	means personal information about an individual that includes: **(a)** Information or an opinion about- **(i)** the physical, mental or psychological health (at any time) of an individual; or **(ii)** a disability (at any time) of an individual; or

	(iii) an individual's expressed wishes about the future provision of health services to him or her; or **(iv)** a health service provided, or to be provided, to an individual; or **(b)** Other personal information collected to provide, or in providing, a health service; or **(c)** Other personal information about an individual collected in connection with the donation, or intended donation, by the individual of his or her body parts, organs or body substances; or **(d)** Other personal information that is genetic information about an individual in a form which is or could be predictive of the health (at any time) of the individual or of any of his or her descendants
Health Service	means: **(a)** an activity performed in relation to an individual that is intended or claimed (expressly or otherwise) by the individual or the organisation performing it- **(i)** to assess, maintain or improve the individual's health; or **(ii)** to diagnose the individual's illness, injury or disability; or **(iii)** to treat the individual's illness, injury or disability or suspected illness, injury or disability; or **(b)** a disability service, palliative care service or aged care service; or **(c)** the dispensing on prescription of a drug or medicinal preparation by a pharmacist; or **(d)** a service, or a class of service, provided in conjunction with an activity or service referred to in paragraph (a), (b) or (c) that is prescribed as a health service
Health Service Provider	means an organisation that provides a health service in Victoria. The University health service providers include but are not limited to the Health/ Medical Service and the Counselling Services
Record	includes information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not (eg. hard copy, audio tapes, photographs, micro-fiche and computerised records including electronically derived databases and directories), about a person whose identity is apparent, or can reasonably be ascertained, from the information or opinion. It may be ascertained by factual data (name, student ID number, address, telephone number, age, enrolment status, employment details, digital image etc.), academic progress (course details, examination results, evaluation and assessment, academic standing etc.) and personal welfare (emergency contacts, family matters,

	medical matters and financial matters), but does not include: **(a)** a generally available publication; or **(b)** kept in a library, art gallery or museum for the purposes of reference, study or exhibition; or **(c)** a public record under the control of the Keeper of Public Records that is available for public inspection in accordance with the Public Records Act 1973; or **(d)** archives within the meaning of the Copyright Act 1968 of the Commonwealth.
Primary Purpose	a primary purpose is one for which the individual concerned would expect their information to be used. Using the information for this purpose would be within their reasonable expectations.
Secondary Purpose	a secondary purpose may or may not be apparent to the individual concerned, or within their reasonable expectations. Collecting the information may be mandatory (because required by law) or optional. The main distinction is that the service could still be provided even if the secondary purpose were not served.

LEGISLATIVE CONTEXT

Name	Location
Privacy Act (Cwth.) 1988 and guidelines	http://www.comlaw.gov.au/
Information Privy Act (Vic.) 2000	http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/LTObject_Store/LTObjSt6.nsf/DDE300B846EED9C7CA257616000A3571/A9DCDED8F32066EFCA2578E600090FF8/$FILE/00-98aa022%20authorised.pdf
Information Privy Act (Vic.) 2000 guidelines	http://www.privacy.vic.gov.au/
Health Records Act (Vic.) 2001	http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/LTObject_Store/LTObjSt6.nsf/DDE300B846EED9C7CA257616000A3571/77FAA53ECDC0DA44CA2579030015D701/$FILE/01-2aa023%20authorised.pdf
Freedom of Information Act (Vic.) 1982	http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/LTObject_Store/LTObjSt6.nsf/DDE300B846EED9C7CA257616000A3571/8D77927CC7483A8BCA257A290021C292/$FILE/82-9859aa071%20authorised.pdf
Public Records Act (Vic.) 1973	http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/LTObject_Store/LTObjSt6.nsf/DDE300B846EED9C7CA257616000A3571/D2B93E4380A56273CA257A0700083577/$FILE/73-8418aa036%20authorised.pdf

SECTION 2 - POLICY

PRINCIPLES

This policy establishes and maintains:

- a regime for the responsible collection and handling of personal information by the University

POLICY

1.	Collection of Information
	1.1 General Swinburne will only collect personal information that is necessary and incidental to Swinburne functions or activities. Where possible Swinburne will give an individual the option of interacting anonymously with it. Swinburne will collect personal information about an individual only by lawful and fair means and not in an unreasonably intrusive manner.
	1.2 Sensitive/ Health Information Generally, Sensitive and Health Information will only be collected with the consent of the individual. Where an individual is incapable of giving consent to the provision of health information, Swinburne will seek the authorisation of an authorised representative.
	1.3 No Consent Where Impracticable to Do So Swinburne will only collect personal information, sensitive information and health information without consent where it is impracticable to gain such consent.
	1.4 Collection of Personal Information from Third Party While Swinburne generally collects personal or health information directly from the relevant individual, in some cases we may collect it from a third party, such as VTAC, a temporary employment agency or a contractor. Where Swinburne collects information about an individual from a third party (for example if a student authorises a parent, spouse or partner to register for them on their behalf), Swinburne will still take reasonable steps to ensure that the individual is made aware of the details set out above. This will not apply to health information that is provided to a Swinburne health service in confidence.
	1.5 University Staff Obligations for Collection of Personal Information If a staff member collects, uses, discloses or handles personal information on the Swinburne's behalf, the staff member must abide by the information privacy principles set out in the *Privacy Act 1988 (Commonwealth)* and comply with the purposes of clause 23 of Schedule 1A Part 1 Division 4 of the Higher Education Support Act (HESA) 2003 (Commonwealth) and section 19-60 of Chapter 2 Part 2-1, Division 19 of the *HESA Act* and meet the relevant requirements of the Information Privacy Principles set out in the *Information Privacy Act 2000 (Vic)* and the Health Privacy Principles set out in the *Health Records Act 2001.(Vic).* Staff members must only collect, handle, use, disclose and store the information for the agreed purposes only.
	1.6 Collection of Information When Swinburne collects personal information directly from an individual (for example if a student enrols in a course), it will take reasonable steps at or before the time of collection to ensure that:

1.6. 1 the individual is aware of certain matters, such as the purposes for which the University is collecting the information;

1.6.2 the individual is aware of the organisations (or types of organisations) to which Swinburne would normally disclose information of that kind;

1.6.3 the individual is able to access the information; and

1.6.4 the individual is aware how to contact Swinburne.

2. Information the University Collects

2.1 Personal Information

Swinburne collects personal information from staff, students, prospective students, past students, benefactors, research participants, and external contractors. Personal information that Swinburne collects includes:

- Names
- Student Identification Numbers
- Addresses
- Emergency Contacts
- Photographic Identification
- Other related personal information required for the effective management of the University

2.2 Health Information

Health Information is only collected with individual consent, subject to legislative exceptions, for the following purposes:

University Department/ Unit	Purpose of Collection of Health Information
Medical Service	Provision of physical, mental and psychological health services
Counselling Services	Provision of psychological support services
Academic Units/ Research Centres	Undertaking of Research
Acacdemic Units/Other University Divisions	As supporting documentation for verification purposes

Swinburne will only collect health information where is it necessary to do so, and will not use the information other than for the purpose that it is provided, without express authorisation.

3. Privacy Notification Requirements

When Swinburne collects personal information, health information or sensitive information, it will ensure that the individual is properly notified of the following:

- why information is being collected about them;
- who else the information may be provided to; and
- other specified matters.

4.	Use and Disclosure of Information

4.1 Personal Information - Primary Purpose of Collection

The main functions of Swinburne are to provide teaching and research services, together with ancillary services, which may support students and staff in their study or work at the university. Some information needs to be collected by Swinburne, for governmental purposes.

Examples of Purposes for which Personal Information is Collected

The primary purposes for which information is collected include, but are not limited to:

- Enrolment in Swinburne Courses
- Provision of access to Swinburne facilities
- Maintenance of Student Records and Results
- Communication with previous, current and prospective students in relation to Swinburne Activities
- Participation in Research
- Maintenance of Records of External Parties
- Advancement of the Swinburne Strategic themes in relation to education, research and training
- Other reasons directly related to the activities of Swinburne.

4.2 Purposes for Which Health Information is Collected

University Department/ Unit	Purpose of Collection of Health Information
Medical Service	Provision of physical, mental and psychological health services
Counselling Services	Provision of psychological support services
Academic Units/ Research Centres	Undertaking of Research
Acacdemic Units/Other University Divisions	As supporting documentation for verification purposes

4.3 Use of Personal Information for Secondary Purposes

Swinburne has a duty to maintain the confidentiality of personal and health information. Swinburne will only use or disclose personal information for a secondary purpose other than the primary purpose for which it was originally collected where:

- the secondary purpose is related to the primary purpose (or is directly related, in the case of sensitive information or health information), and a person would reasonably expect the University to use or disclose the personal information for that secondary purpose; or
- a person has consented to the use or disclosure of their personal information for the secondary purpose; or
- the use or disclosure is required or authorised by or under law; or
- the use is otherwise permitted by privacy laws.

	4.4 Disclosure of Personal Information Swinburne will disclose personal information that it collects to staff that require access to undertake University activities. This will generally be the primary purpose of the collection of the personal information. Swinburne will not disclose personal information to other third parties without the consent of the individual, except where the disclosure is authorised under privacy laws.
	4.5 Release to Individuals Individuals are entitled to access any of their own Personal Information in accordance with the principles for access set out in the *Information Privacy Act 2000 (Vic)* and the *Privacy Act 1988 (Commonwealth).*
5.	**Review of Personal and Health Information**
	Swinburne will take all reasonable steps to ensure the personal information collected, used or disclosed is accurate, complete and up-to-date. This may require you to correct the information. These obligations will vary across academic units and departments.
6.	**Security**
	Swinburne will take all reasonable steps to protect the personal information held from misuse and loss and from unauthorised access, modification or disclosure. This will include ensuring that all electronic systems are protected through electronic passwords, and departments that hold hard-copy files not stored with the Record Management Unit are secure.
7.	**Government Identifiers**
	7.1 Except to the extent permitted by the privacy laws, Swinburne will not use Commonwealth or State government identifiers as its own identifier nor will it disclose such identifiers to anyone else.
	7.2 Swinburne will only assign identification numbers to individuals if the assignment of identifiers is reasonably necessary to enable it to carry out its functions efficiently. For example, both staff and student identification numbers are necessary to enable Swinburne to carry out its functions.
8.	**Removal/Destruction of Information**
	8.1 Personal Information Subject to the Public Records Act (Vic.) 1973, Swinburne will take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose for which information was provided. Personal information will only be removed/ destroyed by secure means.
	8.2 Health Information Swinburne will de-identify health information for research purposes where it is appropriate to do so.
	8.3 Health Information – Health Service Providers Swinburne health service providers are required to ensure that Health Information is not deleted unless it is: • Authorised by the Public Records Act (Vic.) 1973 • Where health information collected is while the individual was a child, the individual attains the age of 25 years • At least 7 years after the last occasion on which the health service was provided to the individual

9.	**Transfer of Information**
	9.1 Swinburne will only transfer personal information to external parties on the following conditions: **9.1.1** the external party has in place similar procedures in relation to the collection, storage, use and disclosure of personal or sensitive information; or **9.1.2** an individual provides consent to the transfer of information; or **9.1.3** the transfer of information is for the benefit of the individual
	9.2 Where Swinburne intends to transfer any personal or sensitive information to a third party, including interstate or overseas campuses, it will ensure that contractual arrangements require Swinburne's privacy obligations to travel with the personal information.
	9.3 Where Swinburne engages a contractor to undertake work on the University's behalf, the transfer of information need not be for the benefit of the individual, insofar as the use of the personal information is for a primary purpose.
10.	**Transfer of Health Information to Another Health Service Provider**
	10.1 Swinburne's Health Service and Counselling Service will only transfer health information to other Health Service Providers where: **10.1.1** Requested by the individual, or **10.1.2** Requested by another Health Service Provider that is authorised by the individual
	10.2 Where Swinburne's Health Service or Counselling Service is requested to transfer health information in accordance with this policy, it may require the payment of a fee in accordance with the Health Records Regulations.

SECTION 3 - PROCEDURE

PROCEDURE

	Procedure steps	Responsibility
1.	**Access To Personal Information**	
	1.1 Access to Personal Information Swinburne will provide access to personal information under: **1.1(a)** Freedom of Information legislation **1.1(b)** Legislative Obligations **1.1(c)** Individual Consent Arrangements	Staff
	1.2 Access to Personal Information – Staff **1.2(a)** University staff will only be provided with access to personal information where it is necessary to carry out their responsibilities. **1.2(b)** Heads of Management Units are required to maintain a register of staff who are given access to personal information collected by the unit, and whether the staff member may amend or delete the information.	Heads of Management Units
	11.1.3 Access to Employee Records Staff may request access to their employee records from: **11.1.3(a)** Manager – HR Administration, for records held by the Human Resources Department **11.1.3(b)** Head of School/ Head of Department, for locally held records **11.1.3(c)** Staff may apply for access to their records under the University Freedom of Information policy.	Human Resources / Heads of Management Units
2.	**Disclosure Of Personal Information**	
	2.1 The disclosure by the University of all personal, health and sensitive information is subject to other legislative requirements (eg: the Freedom of Information Act 1982 (Vic.)) **2.2** The University will disclose personal information to a third party on request of an individual, where it receives a written authorisation (signed) by the individual to be released for a specified purpose. The Head of Management Unit must co-sign the consent as verification that the individual has properly consented. **2.3** The University will not require the written authorisation where the disclosure is authorised by law.	Staff Heads of Management Units

3.	**Privacy Risk Management Procedures**	
	3.1 All Heads of Management Units have primary responsible for privacy compliance in their management unit. **3.2** Head of Management Units must ensure that an appropriate Privacy Statement is in place where their Unit collects any personal information. These will be developed, where necessary, in consultation with the Compliance Officer. **3.3** Where a Head of Management Unit is responsible for an information technology system, they are required to ensure that the applicable system complies with privacy legislation. **3.4** The University must not acquire or implement information systems that are not privacy compliant.	Heads of Management Units
4.	**Privacy Complaints Handling Procedure**	
	The following procedures apply if an individual considers that the University has breached this policy or the privacy laws in respect of that individual: **4.1. Complainant to Provide Details of Complaint in Writing** A written complaint must be lodged in accordance with the *Complaints, Reviews, Appeals and Feedback Policy* within six (6) months of the time the complainant first became aware of the apparent breach. The University Counselling Service and Medical Service may require an individual to pay a fee in relation to their request to access their health information. The fee will set at the rate prescribed by the Health Records Regulations 2002. **4.2. Resolution of Complaint** The complaint is to be reviewed and managed as set out in the *Complaints, Reviews, Appeals and Feedback Policy.* **4.3 Consequences if this Policy is Breached** Disciplinary action may be instigated against any staff member who breaches this policy, which may result in the employee being summarily dismissed in circumstances that the University considers there to have been a serious breach.	University Members / Members of the Public Complainant University Counselling Service and Medical Service Human Resources / Head of Management Units

SUPPORTING DOCUMENTATION

Forms and Records Management

Form	Retention Time	Retention Location
Online complaints form		

*University Disposal Schedule is available at http://www.swinburne.edu.au/corporate/scs/rms/

Related Material

Name	Location	Document Type
Access to and Release of Student Records Policy	PPD	Policy and Procedure
Complaints, Reviews, Appeals and Feedback Policy		Policy and Procedure
Employee Records Policy	PPD	Policy and Procedure
Freedom of Information Policy	PPD	Policy and Procedure
Guidelines to Privacy in the Business, Health Sector [under s.95A of the Privacy Act 1988] and Government (as amended from time to time)	http://www.privacy.gov.au/health/guidelines/	Regulatory Guidelines
Guidelines to the Information Privacy Principles (as amended from time to time) (Issued by Privacy Victoria)	http://www.privacy.vic.gov.au	Regulatory Guidelines
Guidelines to the National Privacy Principles (as amended from time to time)	http://www.privacy.gov.au/act/guidelines/index.html	Regulatory Guidelines
Information Technology (IT) Systems Acceptable Use Policy	PPD	Policy and Procedure

SECTION 4 - GOVERNANCE

RESPONSIBILITY

Policy Owner	Swinburne Legal

VERSION CONTROL AND CHANGE HISTORY

Version Number	Approval Date	Approved by	Amendment
6	30 August 2012	Council	Amendments to align policy with Complaints, Review, Appeals and Feedback framework
5	29 June 2010	Director, Governance and Policy Unit	Editorial amendments
4	10 June 2009	Vice Chancellor	Editorial amendments to meet the requirements to be a VET FEE-HELP provider
3	11 July 2008	Executive Group	• Updated the policy to reflect current practices and changes to legislative requirements • Converted the existing policy into the new template format
2	November 2002	Executive Group	
1	December 2001	Vice Chancellor	