

Privacy Policy

Responsible Officer:	Chief Executive Officer
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Purpose

The purpose of this policy is to provide guidelines on the collection of personal information and its secure use within Open Colleges.

Scope

This policy applies to information relating to Open Colleges' students.

Introduction

The Privacy Act

The NSW Government passed the Privacy and Personal Information Protection Act in 1998, appointed a Privacy Commissioner, and established the Commissioner's Office known as Privacy NSW.

The Act came into effect on 1 July 2000. On the 21st December 2001, new provisions of the Privacy Amendment (Private Sector) Act 2000 commenced. This legislation, updating the Privacy Act of 1998, is designed to protect personal information that organisations hold. The Act specifies the following principles relating to collecting, storing and using personal information.

Personal Information

The Act applies to personal information which is "information or an opinion ... about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion." (s.4). Personal information can be in the form of paper or electronic records, video recordings, photographs and biometric data such as blood samples and fingerprints.

Policy Provisions

Information protection principles that relate to the way personal information is collected, stored and used and that apply to Open Colleges are presented below. Exemptions relevant to Open Colleges are included below.

Collection of Personal Information

- *For Lawful Purposes:* Personal information must be collected in lawful ways for lawful purposes (s.8).
- *Directly from the Person:* Personal information must be collected from the person to whom the information relates or, with that person's permission, it

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may be collected from someone else, or it may be collected from a parent or guardian if the person is under 16 years of age (s.9). Exemption: where compliance with the principle would prejudice the interests of the person to whom the information relates (s.26 (1)).

- *Requirements for Collection*: When collecting personal information, reasonable steps must be taken to tell the person to whom the information relates: that their personal information is being collected; why it is being collected; who will see it; whether they are required to provide the information by law or whether they are providing it on a voluntary basis; and how the person can correct the information (s.10). Exemptions: where the person expressly consents (s.26 (2)) or where compliance would prejudice the interests of the person to whom the information relates (s.26 (1)).
- *Other Requirements of Collection*: Reasonable steps must be taken to ensure the information collected: is relevant to the purpose for which it is collected; is accurate, up to date and not excessive; and does not unreasonably intrude upon the person's personal affairs (s.11).

Retention and Security of Personal Information

Personal information must be: securely stored and retained no longer than is necessary; be disposed of securely; and, if given to a person outside of Open Colleges for some authorised purpose, that reasonable steps are taken to prevent its unauthorised use or disclosure (s.12).

- *Information about the Information Held*: Reasonable steps must be taken to let a person know what information is held about him or her; how the information is used; and how the person can have access to it (s.13).
- *Access to Information*: A person must be provided with the opportunity of access to his or her personal information without excessive delay or expense (s.14).
- *Alteration of Information*: A person's personal information must be altered if it is found to be inaccurate, irrelevant or misleading for the purpose for which it was collected (s.15).
- *Checking Information before Use*: Reasonable steps must be taken, before using personal information, to ensure that it is still accurate, up-to-date, relevant, complete and not misleading (s.16).

Limits on Use and Disclosure

Personal information must only be used for the purpose for which it was collected unless: the person gives permission otherwise; or the other purpose is directly related to the first purpose; or not to do so would pose an imminent threat to the person's life or health (s.17). Exemption: where the use is reasonably necessary for

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law enforcement purposes or for the protection of public revenue (s.23 (4)).
“Protecting public revenue” is not defined in the Act. Privacy NSW believes that the term would apply to the collection of taxes but it is not sure if it would apply to the collection of fees for services or fines.

- *Limits on Disclosure:* A person’s personal information must not be disclosed to another person or organisation unless the person was told or is likely to be aware that the information would be so disclosed; or not to do so would pose an imminent threat to the person’s life or health (s.18). Exemptions: where the disclosure is authorised by a subpoena, search warrant or statutory instrument (s.23 (5)(c)) or where disclosure is reasonably necessary for the protection of public revenue (s.23(5)(d)(i)) or where the person expressly consents (s.26(2)).
- *Special Restrictions on Disclosure:* Personal information must not be disclosed outside NSW unless a privacy law operates in the other State or country. Personal information relating to a person’s racial origin, political opinions, religious beliefs, trade union memberships, health or sexual activities must not be disclosed unless not to do so would pose an imminent threat to the person’s life or health (s.19). Exemptions: where the person expressly consents (s.26 (2)) or, in the case of health information, where the person’s consent cannot be reasonably obtained and the disclosure is made to an “authorised health worker” (s.28 (2)) defined as “a medical practitioner, health worker, or other official or employee providing health or community services, who is employed or engaged by a public sector agency” (s.28 (2)).

Privacy Officer

Open Colleges must nominate a Privacy Officer to act as first point of contact for any matters relating to personal information managed by Open Colleges.

Associated Documents

Records Retention Policy

Authorities and Accountabilities

The Registrar is responsible for establishing, communicating and implementing this policy.

The Manager, Quality & Continuous Improvement is responsible for enforcement of this policy and for dealing with breaches.

Related Legislation/Guidelines

NSW Department of Education and Training (DET NSW)
Department of Education, Employment and Workplace Relations (DEEWR)

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Privacy and Personal Information Protection Act in 1998