



PRIVACY CODE OF PRACTICE

Under the Privacy and Personal Information
Protection Act 1998 (NSW)

August 2000
V3

1. Interpretation

PPIPA means the Privacy and Personal Information Protection Act 1998 (NSW) (the PPIPA”);

Code means this Code of Practice;

Course of Study means any course provided by the University, whether or not leading to a degree, and includes any course offered by the Centre for Open Education;

Educational Affiliate means an Educational Institute through which Macquarie University may run a course of study and includes private educational bodies.

Educational Institution means any tertiary educational institution other than Macquarie University and includes the Open Learning Agency;

FOI Act means the Freedom of Information Act 1989;

Information means and includes personal information as defined by the PPIPA;

Information Protection Principles means those principles contained in Part 2 Division 1 of the PPIPA;

Investigations Code Of Practice means the Code of Practice initiated by Privacy New South Wales for application to those public sector agencies which have “lawful investigative functions” as defined in that code;

Other Codes of Practice includes the Investigations Code of Practice and the Research Code of Practice as developed and gazetted by Privacy New South Wales.

Personal Information is defined in section 4 of the PPIPA;

Plan means Macquarie University’s Privacy Management Plan (the “Plan”);

Public Sector Agency means Macquarie University and includes any government or statutory body representing the Crown and otherwise as defined in the PPIPA;

Public Sector Official includes an officer or employee of Macquarie University;

Research Code of Practice means the Code of Practice initiated by Privacy New South Wales.

Section refers to a section of the PPIPA;

State Record has the same meaning as in the State Records Act 1998; and

Student includes any person undertaking a course of study;

Tribunal means the Administrative Decisions Tribunal established under the Administrative Decisions Tribunal Act 1997;

University means the Macquarie University, established under the Macquarie University Act 1989 and includes the Macquarie Graduate School of Management, the Centre of Applied Finance, the Centre for Open Education and any University-owned company.

2 The Information Protection Principles

The University will apply the information protection principles in the following manner:

Information protection principle 1 – section 8 of the PPIPA

8 Collection of personal information for lawful purposes

- (1) A public sector agency must not collect personal information unless:
 - (a) the information is collected for a lawful purpose that is directly related to a function or activity of the agency, and
 - (b) the collection of the information is reasonably necessary for that purpose.
- (2) A public sector agency must not collect personal information by any unlawful means.

Modification

8. There is no intention to depart from the requirements of this section.

Information protection principle 2 – section 9 of PPIPA

9 Collection of personal information directly from individual

A public sector agency must, in collecting personal information, collect the information directly from the individual to whom the information relates unless:

- (a) the individual has authorised collection of the information from someone else, or
- (b) in the case of information relating to a person who is under the age of 16 years—the information has been provided by a parent or guardian of the person.

Modification

9. Section 9 is modified to permit the University to collect information indirectly in the following circumstances:

9.1 Cross – Educational Institution Study

Where a student of an Educational Institution wishes to undertake a course of study at Macquarie University, the University will collect information about that student's academic performance, including a testamur, from any Educational Institution which that student may have attended in the past or is currently attending.

9.2 Employment

The University may collect information (including a testamur) relating to a prospective employee of the University from a current or former employer or, in the case of a student, an Educational Institution.

9.3 Employment Based Educational Services

The University may collect information from a corporation relating to a student enrolled in a course of study with the University (most commonly the Centre for Open Education), where it is reasonably impracticable to obtain from that student an authority under section 9(a) or where those bodies may not be bound by the PPIPA.

9.4 University Owned Companies

The University may collect information from University owned companies where it is reasonably impracticable to obtain the authority of the person under section 9 (a) of the PPIPA because such companies are at arm's length in relation to certain functions.

9.5 Universities Admission Centre

The University may collect information relating to a prospective student from the Universities Admission Centre or any Educational Institution whether that student is applying for admission for the first time or is transferring from another Educational Institution.

9.6 Prizes, Awards and Scholarships

The University may collect information relating to a prospective prize or academic award nominee, or scholarship, from any other Educational Institution whether or not to verify results as claimed or to collect information for the purpose of determining whether to confer a prize, award or scholarship.

9.7 Educational Affiliates

Where University students are undertaking a course of study at an offshore location through a private Educational Affiliate, the University may collect information about those students indirectly from the Educational Affiliate.

9.8 Call Centre

The University engages a private contractor to operate a call centre located in Melbourne for the purpose of collecting prospective student inquiries and disclosing such personal information collected to the University. This Code authorises such indirect collection.

9.9 Research Code of Practice

Any collection of information for research purposes will be allowed under a section 41 Direction made by the Privacy Commissioner until such time as a Research Code of Practice is made by Privacy New South Wales;

Information protection principle 3 – section 10 of the PPIPA

10 Requirements when collecting personal information

If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances to ensure that, before the information is collected or as soon as practicable after collection, the individual to whom the information relates is made aware of the following:

- (a) the fact that the information is being collected,
- (b) the purposes for which the information is being collected,
- (c) the intended recipients of the information,
- (d) whether the supply of the information by the individual is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided,
- (e) the existence of any right of access to, and correction of, the information,

- (f) the name and address of the agency that is collecting the information and the agency that is to hold the information.

Modification

10. The University shall not be required to comply with section 10 where:

10.1 Educational Affiliates

University students are undertaking a course of study at an offshore location through a private Educational Affiliate, and the University cannot reasonably notify those students of the collection of information relating to themselves without being seen to unduly interfere with the administrative role of the Educational Affiliate.

10.2 Universities Admissions Centre

It receives personal information from the Universities Admission Centre.

10.3 Educational Institution

It receives personal information from an Educational Institution where that Institution is not bound by the Act.

10.4 Notification Provided by the University

In relation to the following forms which it has identified:

- (a) Applications for Residence (Housing)
- (b) Advice of Disability
- (c) Application for admission – Master of Applied Finance
- (d) Primary Teacher Education Form
- (e) Postgraduate New Enrolment
- (f) Undergraduate New Enrolment
- (g) Undergraduate Enrolment
- (h) Equal Employment Opportunity – Data Collection Form
- (i) Request for Special Consideration
- (j) Professional Authority Form
- (k) Application for Access to the Student Information System On-line Inquiry
- (l) Non-Order Payment Request
- (m) Counselling Services Questionnaire
- (n) Alumni Bulletin
- (o) MGSM Enrolment Forms
- (p) MGSM Alumni Bulletin

The University shall not be bound to comply with section 10 where it is impracticable in circumstances other than those specified in (a) to (p) above.

10.5 Call Centre

The University engages a private contractor to operate a call centre located in Melbourne for the purpose of collecting prospective student inquiries and disclosing such personal information collected to the University. This Code authorises the University not to comply with section 10.

Information protection principle 4 – section 11 of the PPIPA

11 Other requirements relating to collection of personal information

If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances (having regard to the purposes for which the information is collected) to ensure that:

- (a) the information collected is relevant to that purpose, is not excessive, and is accurate, up to date and complete, and
- (b) the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.

Modification

11. There is no intention to depart from the requirements of this section except as provided for by the PPIPA or any Other Code of Practice.

Information protection principle 5 – section 12 of the PPIPA

12 Retention and security of personal information

A public sector agency that holds personal information must ensure:

- (a) that the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and
- (b) that the information is disposed of securely and in accordance with any requirements for the retention and disposal of personal information, and
- (c) that the information is protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and
- (d) that, if it is necessary for the information to be given to a person in connection with the provision of a service to the agency, everything reasonably within the power of the agency is done to prevent unauthorised use or disclosure of the information.

Modification

12. There is no intention to depart from the requirements of this section except as provided for by the PPIPA or any Other Code of Practice.

Information protection principle 6 – section 13 of the PPIPA

13 Information about personal information held by agencies

A public sector agency that holds personal information must take such steps as are, in the circumstances, reasonable to enable any person to ascertain:

- (a) whether the agency holds personal information, and
- (b) whether the agency holds personal information relating to that person, and
- (c) if the agency holds personal information relating to that person:
 - (i) the nature of that information, and
 - (ii) the main purposes for which the information is used, and
 - (iii) that person's entitlement to gain access to the information.

Modification

13. There is no intention to depart from the requirements of this section except as provided for by the PPIPA or any Other Code of Practice.

Information protection principle 7 – section 14 of the PPIPA

14 Access to personal information held by agencies

A public sector agency that holds personal information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.

Modification

14.1 Educational Institution

There is no intention to depart from this section subject to the University's capacity to ascertain any personal information it may hold in relation to the individual which originates from another Educational Institution or Educational Affiliate and where that other Educational Institution or Educational Affiliate is the primary custodian of the information.

14.2 Counselling and Health Services

Files kept for each client contain caseworker's notes, the access to which may not be beneficial to the client. The University will determine the extent of access in relation to caseworker's notes and where appropriate after discussion with the medical practitioner.

Information protection principle 8 – section 15 of the PPIPA

15 Alteration of personal information

(1) A public sector agency that holds personal information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information:

- (a) is accurate, and
- (b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.

(2) If a public sector agency is not prepared to amend personal information in accordance with a request by the individual to whom the information relates, the agency must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment sought.

(3) If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the public sector agency.

Modification

15.1 Alteration of Academic Records

There is no intention to depart from the requirements of this section subject to the University not being required to amend an academic or other test result once determined and finalised and recorded in an academic record at the end of any term of study, nor being required to comply with the requirement to attach to the information any statement where that information is or forms part of a final record of academic achievement. Such a statement may be kept on the relevant University file for that student's record of study for a particular subject in a course.

This exemption does not limit a student's rights in relation to any academic appeal or grievance process.

Information protection principle 9 – section 16 of the PPIPA

16 Agency must check accuracy of personal information before use

A public sector agency that holds personal information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading.

Modification

16. There is no intention to depart from the requirements of this section except as provided for by the PPIPA or any Other Code of Practice.

Information protection principle 10 – section 17 of the PPIPA

17 Limits on use of personal information

A public sector agency that holds personal information must not use the information for a purpose other than that for which it was collected unless:

- (a) the individual to whom the information relates has consented to the use of the information for that other purpose, or
- (b) the other purpose for which the information is used is directly related to the purpose for which the information was collected, or
- (c) the use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom the information relates or of another person.

Modification

17. Section 17 is modified where the University may use information for a purpose other than the purpose for which it was collected in the following circumstances:

17.1 Awards, prizes, and benefits

Where information is to be used for the purpose of conferring upon a particular person, an award, prize, benefit or other form of personal recognition.

17.2 Research Code of Practice

The use of information for research purposes will be allowed under a section 41 Direction made by the Privacy Commissioner until such time as a Research Code of Practice is made by Privacy New South Wales and provided that use complies with the section 41 Direction referred to in this paragraph.

17.3 Macquarie Graduate School of Management (MGSM)

As a self funded school, the MGSM uses an extensive database of student records which are disclosed in a de – duplicating process by a data services provider and that database may be used to promote the MGSM's courses.

Information protection principle 11 – section 18 of the PPIPA

18 Limits on disclosure of personal information

(1) A public sector agency that holds personal information must not disclose the information to a person (other than the individual to whom the information relates) or other body, whether or not such other person or body is a public sector agency, unless:

- (a) the disclosure is directly related to the purpose for which the information was collected, and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure, or
- (b) the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with section 10, that information of that kind is usually disclosed to that other person or body, or
- (c) the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.

(2) If personal information is disclosed in accordance with subsection (1) to a person or body that is a public sector agency, that agency must not use or disclose the information for a purpose other than the purpose for which the information was given to it.

Modification

18. Section 18 is modified to permit the University to disclose information in the following circumstances:

18.1 Cross – Educational Institution Study

The University may disclose information to an Educational Institution where:

- (i) that Educational Institution is a signatory to a collaborative information sharing agreement; and
- (ii) the University is satisfied that the information is to be used by that Educational Institution for a proper and lawful function/s of that Educational Institution in relation to a particular student and that student is enrolled in a course of study with that Educational Institution; and
- (iii) the University is satisfied that the information is reasonably necessary for the exercise of that Educational Institution's functions in assisting that student.

18.2 Awards, Prizes, and Benefits

Where information which has been collected about an individual is to be disclosed for the purpose of conferring upon that person, an award, prize, benefit or other form of personal recognition.

18.3 Employment

Where Macquarie University is requested by a potential employer, it may verify that a current or former employee works or has worked for Macquarie University, the duration of that work, and the position occupied during that time. This exception shall permit Macquarie University to give an opinion as to that person's suitability for a particular position with any potential employer.

18.4 Universities Admission Centre

The University may disclose information to the Universities Admission Centre and another Educational Institution where a student transfers from this University to another Educational Institution or where it is otherwise appropriate.

18.5 Research

Any disclosure of information for research purposes will be allowed under a section 41 Direction made by the Privacy Commissioner until such time as a Research Code of Practice is made by Privacy New South Wales provided that such disclosure complies with the section 41 direction referred to in this paragraph.

18.6 Collaborative Research

Where the University is engaged in projects with either the private or public sector, the University is permitted to disclose or exchange information regarding the subject matter of the research and the personnel of the project. Any disclosure relating to the research subjects shall require the approval of the Human Research Ethics Committee established at this University.

18.7 Macquarie Graduate School of Management (MGSM)

As a self funded school, the MGSM uses an extensive database of student records which are disclosed in a de – duplicating process by a data services provider and that database may be used to promote the MGSM's courses.

18.8 Employment Based Educational Services

The University may disclose information to a sponsoring private corporation relating to a student enrolled in a course of study (most commonly the Centre for Open Education), where it is reasonably impracticable to obtain from that student an authority under section 9(a) or where that corporation may not be bound by the PPIPA or is outside the jurisdiction and the purpose of disclosure concerns the possibility of an offer of employment to a student.

Information protection principle 12 – section 19 of the PPIPA

19 Special restrictions on disclosure of personal information

- (1) A public sector agency must not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, health or sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person.
- (2) A public sector agency that holds personal information must not disclose the information to any person or body who is in a jurisdiction outside New South Wales unless:
 - (a) a relevant privacy law that applies to the personal information concerned is in force in that jurisdiction, or
 - (b) the disclosure is permitted under a privacy code of practice.
- (3) For the purposes of subsection (2), a **relevant privacy law** means a law that is determined by the Privacy Commissioner, by notice published in the Gazette, to be a privacy law for the jurisdiction concerned.
- (4) The Privacy Commissioner is, within the year following the commencement of this section, to prepare a code relating to the disclosure of personal information by public sector agencies to persons or bodies outside New South Wales.
- (5) Subsection (2) does not apply:

(a) until after the first anniversary of the commencement of this section, or
(b) until a code referred to in subsection (4) is made,
whichever is the later.

Modification

19. The University is not required to comply with section 19(2) in the following circumstances:

19.1 Employment

Where the University is requested by a potential employer outside the jurisdiction of New South Wales to verify that a current or former employee works or has worked for the University, the duration of that work and the position occupied during that time.

19.2 Cross – Educational Institution Study

Where a student of the University wishes to undertake a course of study at an Educational Institution outside the jurisdiction, the University may disclose information about that student's academic performance, including a testamur, to that Educational Institution provided the University is reasonably satisfied that the person has in fact applied for a course of study at that Educational Institution.

Where a student wishes to undertake a course of study prepared by Macquarie University and offered through the Open Learning Agency, the University may disclose information about that student's academic performance, including a testamur, to the Open Learning Agency provided the University is reasonably satisfied that the person has in fact applied for a course of study at the Open Learning Agency.

19.3 Employment Based Educational Services

The University may disclose information to a corporation relating to a student enrolled in a course of study (most commonly the Centre for Open Education), where it is reasonably impracticable to obtain from that student an authority under section 9(a) or where that corporation may not be bound by the PPIPA or is outside the jurisdiction.

19.4 Awards, Prizes, and Benefits

The University may disclose information relating to a prospective prize or academic award nominee, or scholarship, to an Educational Institution provided the University is reasonably satisfied that the application is a bona fide one and for the stated purpose, and whether or not the Educational Institution is outside the jurisdiction.

19.5 Collaborative Research

Where the University is engaged in projects with either the private or public sector, the University is permitted to disclose or exchange information outside the jurisdiction regarding the subject matter of the research and the personnel of the project. Any disclosure relating to the research subjects shall require the approval of the Human Research Ethics Committee established at this University.

19.6 Library and Copyright

The Library may collect information by reason of a Copyright Council requirement and disclose information to the Copyright Council and a data service provider outside the jurisdiction in relation to the use of electronic databases.

19.7 International Operations

The University may disclose information relating to students to Educational Affiliates outside the jurisdiction to facilitate their course of study.

3. Freedom of Information Act to Apply

The Freedom of Information Act 1989 applies independently of this Code. Nothing in this Code can be used to prevent disclosure of information otherwise lawfully made under a properly made application under the Freedom of Information Act 1989.

Macquarie University may treat any application under this Code that may in any way require the disclosure or access of personal information of another person, to be made under the FOI Act

4. Research

Any collection, storage, use or disclosure of information for research purposes will be allowed under a section 41 Direction made by the Privacy Commissioner, until such time as a Research Code of Practice is made by Privacy New South Wales, provided that it complies with the section 41 Direction referred to in this paragraph.

5. Implementation of this Code of Practice

The Vice – Chancellor of Macquarie University is responsible for the implementation of this Code.

Compliance

This Code will be made by an order of the Minister published in the Gazette. This Code takes effect once the order making this Code is published (or such later date as may be specified in the order) and the Macquarie University to whom this Code applies must comply with its provisions.

The University's Privacy Management Plan will regulate requirements to comply with obligations imposed by the PPIPA having regard to this Code.

Breaches of this Code can give rise to a right of review and unauthorised disclosure of information protected by this Code could attract penalties under the PPIPA.

Complaints

Complaints in respect of the protection and obligations arising under PPIPA and this Code should be addressed to the Vice – Chancellor of Macquarie University. Complaints will then be forwarded to the Privacy Contact Officer who will determine the matter in accordance with any application for review or such other procedure that may be required.

Review of Code

The Macquarie University will review this Code at regular intervals of not more than three (3) years to ensure that it is optimising its compliance measures whereby personal information is collected, stored, used and disseminated.