QMS 505 – Privacy

1. INTRODUCTION

This procedure identifies the actions to be taken when dealing with the personal information of students and staff. The procedure applies to all Institute staff and is consistent with the Information Privacy principles embodied in the Information Privacy Act 2000 (Vic) and the Health Records Act 2001(Vic).

For the purposes of clause 23 of Schedule 1A Part 1 Division 4 of the Higher Education Support Act (HESA) 2003 (Cth) and section 19 – 60 of Chapter 2 Part 2 – 1, Division 19 of the HESA Act, Chisholm complies with the information privacy principles set out in the Privacy Act 1988 (Cth).

The Institute's Privacy Officer is the Records Management Co-ordinator.

2. REFERENCES

2.1 Information Privacy Act 2000
2.2 Health Records Act 2001
2.3 Freedom of Information Act 1982
2.4 Evidence Act 2008
2.5 Copyright Act 1968
2.6 Whistleblowers Protection Act 2001
2.7 Australian Quality Training Framework (2010)
2.8 Education Services for Overseas Students Act 2000 (ESOS)
2.9 The National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students (The National Code 2007)
2.10 DIAC - Australian Government Department of Immigration and Citizenship
2.11 Ministerial Directions to Councils of TAFE Institutes and Universities
2.12 Higher Education Support Act 2003
2.13 Privacy Act 1988 (Cth)
2.14 ISO 9001:2008 Quality Management Systems
2.15 Standards for NVR Registered Training Organisations 2011 (formerly AQTF)

3. DEFINITIONS

3.1 Privacy Officer the Privacy Officer will be responsible for the administration of the Institute Privacy Policy. Specifically the Privacy Officer will:

- keep records which are required to be kept under this Policy;
- investigate complaints concerning a breach of the Privacy Principles;
- inform and assist staff with respect to privacy issues;
- carry out regular audits to identify and assess risks to the Institute information system.

3.2 Personal Information means 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, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

3.3 Sensitive Information means Information or an opinion about an individual's:

- Racial or ethnic origin;
- Political opinions;
- Membership of a political association;
- Religious beliefs or affiliations;
- Philosophical beliefs;
- Membership of a professional or trade association;
- Membership of a trade union;
- Sexual preferences or practices;
- Criminal record;

that is also personal information; or Health information about an individual.

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3.4 Health Information means information or an opinion about the physical, mental or psychological health (at any time) of an individual; or:

- a disability (at any time) of an individual;
- an individual's expressed wishes about the future provision of health services to him or her;
- a health service provided, or to be provided, to an individual that is also personal information;
- other personal information collected to provide, or in providing, a health service;
- 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;
- 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;

but does not include health information, or a class of health information or health information contained in a class of documents, that is prescribed as exempt health information for the purposes of the Health Information Act generally or for the purposes of specified provisions of the Health Information Act.

3.5 Employee record in relation to an employee, means a record of personal information relating to the employment of the employee. Examples of personal information relating to the employment of the employee are health information about the employee and personal information about all or any of the following:

- the engagement, training, disciplining or resignation of the employee;
- the termination of the employment of the employee;
- the terms and conditions of employment of the employee;
- the employee's personal and emergency contact details;
- the employee's performance or conduct;
- the employee's hours of employment;
- the employee's salary or wages;
- the employee's membership of a professional or trade association;
- the employee's trade union membership;
- the employee's recreation, long service, sick, personal, maternity, paternity or other leave;
- the employee's taxation, banking or superannuation affairs.

3.6 Records means:

- a document;
- a database (however kept);
- a photograph or other pictorial representation of a person;

But does not include:

- a publication that is available to the public;
- anything kept in a library, art gallery or museum for reference, study or exhibition purposes;
- a public record under the control of the Keeper of Public Records that is available for public inspection; or an archive within the meaning of the Copyright Act 1968.

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4. PROCEDURE

4.1 Collection of Information

4.1.1 The Institute will only collect personal information that is necessary for Institute purposes.

4.1.2 Sensitive information will only be sought with the consent of the individual.

4.2 Information the Institute Collects

4.2.1 The Institute collects information from students, prospective students, past students, staff, benefactors, research participants, and external contractors. Personal information that the Institute collects includes:

- Name;
- Student Identification Number;
- Date of Birth;
- Employee Records (as defined in point 3.5);
- Name of employer for apprentices and trainees;
- Addresses, including e-mail addresses;
- Emergency Contacts;
- Health or Sensitive Information (as defined in points 3.3 & 3.4);
- Photographs – for personal identification and use of Institute facilities such as the library, Information Technology equipment, (computers and printers);
- Statistical information on students as required by HESG.

4.3 Information Stored Electronically: Chisholm Operational Systems

4.3.1 The Institute uses the following operational systems for the collection and recording of information:

Operational System	System Purpose	System Owner
STRATA	Records student enrolment, Maintains student results, Processing Awards/Graduation	Academic Administration
SYMPHONY	Records student, staff & other borrower details	Library & Information Management
FINANCE ONE	Records personal details required to effect financial transactions	Financial Services
Records Management System (TRIM)	Recording of Corporate & student files and documents	Library & Information Management
Manager, Moodle Link	Recording of student course details	Departments
CHRIS	Human Resources information system	Human Resource Development
Outlook	E-Mail	ITS

4.4 Institute Online Systems

4.4.1 Some Institute sites may have chat rooms, forums, online teaching environments, message boards and or/news groups available to their users. Please remember that any information that is disclosed in these areas becomes public information, and caution should be exercised when deciding to disclose personal information.

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4.4.2 E-mail addresses may be considered personal information and should not be disclosed to third parties without permission. When sending e-mail to a large group of recipients, external to the Institute, the use of the blind copy facility is required. Refer to Attachment 2 - Sending e-mail to external groups – Use of BC (Blind Copy).

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4.5 Locally Held Records

4.5.1 Where documents/databases containing personal information maintained by Centres, Divisions and Departments are not recorded on the Records Management System, Centre and Divisional Directors and Managers of Departments must ensure a central record is maintained of all locally held personal information. Such records must include:

- class of person(s) contained in the record;
- purpose of preparation of the record;
- location of the record.

4.6 Institute Privacy Statement

4.6.1 The Institute will make available the Chisholm Institute Privacy Statement, (see Attachment 1 - Chisholm Institute Privacy Statement), that will advise the individual of the following:

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

4.6.2 The Institute Privacy Statement cannot be altered without approval of the Privacy Officer and Chisholm CEO, who must ensure that the purpose for which information is to be collected, used or disclosed, complies with the privacy principles.

4.6.3 The Privacy Statement will be published in the following:

- Institute web site;
- Institute Quality Management System;
- hard copy available from the Privacy Officer.

Information relating to personal and/or health information will also be included in the student diary.

4.6.4 In addition the Institute will publish on its Web Site a Web Site Privacy Statement that specifically covers issues related to the online environment.
All homepages of the Institute must have a hyperlink to the Privacy Statement.

4.7 Use/Disclosure of Information

4.7.1 The information you provide will only be used/disclosed for the reason you provided it unless for a secondary purpose that you would reasonably expect. The law also allows for some uses/disclosures without consent such as to protect safety.

4.8 Purposes for which personal information is collected

4.8.1 The primary purposes for which information is collected is:

- enrolment in Institute courses;
- provide photographic identification for use of Institute facilities and to services;
- maintenance of student records and results;
- communication with previous, current and prospective students in relation to Institute activities;

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- maintenance of records of external parties;
- advancement of the Institute Strategic themes in relation to education, research and training;
- maintenance of employee records;
- other reasons directly related to the activities of the Institute.

4.8.2 The Institute will collect and use information for reasons other than the above purposes when:

- the purpose of collection (a secondary purpose) is directly related to any of the above purpose;
- an individual would reasonably expect information to be used for this purpose or has consented to the use;
- the use or disclosure is necessary for research or the compilation of statistics, in the public interest, other than for publication in a form that identifies an individual, and the Institute has an individual's consent for such use.

4.9 Review of Personal Information

4.9.1 The Institute will endeavour to provide individuals maximum access to their personal information unless this is prohibited by law or exempt documents as outlined in the Freedom of information Act 1982.

4.9.2 The Institute 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 Centres and Departments.

4.10 Security

4.10.1 The Institute 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 password and departments that hold hard-copy files not stored with the Record Management Unit are secured.

4.10.2 Information the Institute collects is used only for the purpose stipulated at the time that the information is collected. Chisholm Institute is required by law not to reveal, disclose, sell, distribute, rent, licence, share or pass on to any third parties any personal information that has been provided to it unless it has the express consent of the individual to do so.

Exceptions to this include:

- where there are reasonable grounds to believe that disclosure is necessary to prevent a threat to life or health; and;
- where the Institute is required to provide information in response to Subpoenas or Warrants or other legal process.

4.11 Removal/ Destruction of Personal Information

Note: Removal or destruction of records must comply with the Institute's Records Management process. (Refer QMS 513 - Records)

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4.11.1 The Institute 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.

4.11.2 All Centres, Divisions and Departments will review local databases, documents, files and records on an annual basis and will be required to delete personal or sensitive information where such information is stored on standard Institute operating systems. Where Centres, Divisions and Departments are intending to collect personal information or sensitive information or establish databases, they must consult the Privacy Officer.

4.12 Transfer of Information

4.12.1 The Institute will only transfer personal information to external parties, including interstate or overseas, where:

- an external party has in place a similar procedure in relation to the collection, storage, use and disclosure of personal or sensitive information; or
- students/staff provide consent to transfer of information; or
- the transfer of information is necessary for the purpose of course requirements.

4.12.2 Where the Institute intends to transfer any personal or sensitive information to a third party, including interstate or overseas campuses, they should consult the Privacy Officer.

4.13 Basis for Release of Information

4.13.1 The following sections outline broad categories under which personal information may be released. Detailed procedures relating to the confidentiality and handling of Student and Staff information are included in Institute procedures QMS 304 - Confidentiality - Student Information and QMS 806 - Confidentiality - Staff Information.

1. Individual Access Request

If an individual requests, the Institute must provide access to personal and sensitive information held about them, unless particular circumstances apply that allows a limit to the extent to which access is provided - these include emergency situations, specified business imperatives and law enforcement or other public interests.

Applications for access to personal or sensitive information that is not otherwise available should be made in writing to the Freedom of Information Officer under the Freedom of Information Act 1982.
Where a student is seeking a copy of their HESA personal information, HECS, FEE or OS-HELP information, access is to be granted under the Privacy Act - that is they do not need to apply using the provisions of the Freedom of Information Act. Any access granted must take into account the provisions of the Privacy Act 1988 in relation to Access and Correction.
An applicant will be required to provide suitable written and/or photo-identification prior to being provided with access.

If an individual requests access to personal information, both the hard copy and computer record may be viewed, but not removed, altered, printed or copied by the staff member without discussing and gaining approval from the Privacy Officer.

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Records are not to be changed or altered prior to the access process being initiated. Access may be limited in circumstances where personal or sensitive information other than the applicant's can be viewed, or the information is capable of identifying another person.

It should be noted that personal and/or professional references are accessible under the Information Privacy Act 2000 and that staff provide such references as individuals and not on behalf of the Institute.

2. Release to meet Legal Obligations

Information may be released by authority of the Privacy Officer to the extent permitted and required by law in accordance with proper legal authority. The principal legal authorities and the information that may be released are as follows:

a) Subpoena
   Information will be released to the extent required by the subpoena, as directed by the Privacy Officer or Director, Corporate Services.
b) Search Warrant
   Information will be released to the extent required by the Warrant. A receipt will be requested for all documents, files, and computer disks, etc., removed from Institute premises.
c) Ombudsman's Requests
   Information will be released which the Ombudsman is by law empowered to request or inspect.
d) Auditor-General's Requests
   Information will be released which the Auditor-General or his/her agent is by law empowered to request or inspect.

3. Freedom of Information Act 1982

Information may be accessed by the Institute's Freedom of Information Officer and released to the extent required to comply with lawful requests or determinations under the Freedom of Information Act 1982.

4. ESOS Act 2000

Information may be made available to Commonwealth and State agencies and the Fund Manager of the ESOS Assurance Fund, pursuant to obligations under the ESOS Act 2000 and the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students (The National Code 2007).

The Institute is required under s19 of the ESOS Act 2000, to inform DIAC about certain changes to a student's enrolment and any breach by the student of a visa condition relating to attendance or satisfactory academic performance.

5. Professional Bodies

Information may be released to recognised professional bodies to the extent required to meet their requirements for establishing the entitlement of students and graduates to practise in a profession.

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6. **Social Service Benefits, Austudy and Abstudy Legislation**
   Information may be released to the extent required by legislation to the relevant bodies administering social service benefits, Austudy, Abstudy, etc. Office of Students may only release information in response to a written request by relevant bodies, or in accordance with established benefits checking procedures.

7. **Evidence Act 1958**
   Information may be released to the extent required pursuant to any compulsory procedure available under the Evidence Act 1958, e.g. Boards and Commissions appointed by the Governor in Council have the power to send for documents.

8. **ASIO Request**
   ASIO, ASIS or a law enforcement agency performing a lawful security function asks the organisation not to provide access to the information on the basis that providing access would be likely to cause damage to the security of Australia.

9. **Other Legislation**
   Information may be released to the extent required by any other present or future state or federal legislation.

10. **Release by Authorisation**
    Personal or sensitive information will only be released for Institute purposes in accordance with:
    - Student Enrolment Declaration; or
    - Written authorisation signed by a student, Chisholm employee, or contractor.
    - Authorisation to cover the release of information to meet legal obligations must be built into:
    - Enrolment process when the student completes the Enrolment Declaration on the enrolment form.
    - Contracts with contractors and service providers.

    An authorisation may permit the release either generally or to specific bodies or class of bodies of all or specific parts of information from the record. The signed authorisation must be retained on a hard copy file (or electronic version of that file) that is held by Records Management.

11. **Release of Information within the Institute**
    a) Release to Teaching and Administrative Staff Information relevant to the conduct and administration of Institute functions, e.g. teaching and research, Library and Information Management, student parking, fee collection, equity and access, and student conduct may, under delegation, be accessed by and communicated to staff responsible for the conduct of such functions. The information retrieved must be restricted to information necessary for the conduct of such functions.

    b) Research Purposes
       Staff collecting, maintaining and using personal information for the purpose of research must also comply with the Institute Procedure QMS 501 - Research. Information/data collated must be anonymous and presented in statistical form.

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c) Electronic Directory Services
The provision of personal information for external electronic directory services is prohibited, except by specific consent.

4.14 Complaints Relating to Privacy Issues

4.14.1 If an individual considers that the Institute has breached the privacy principles in respect of that individual, he/she should apply in writing within six (6) months of the time the complainant first became aware of the apparent breach, to the Privacy Officer. The complaint must specify details of the apparent breach.

4.14.2 The Privacy Officer will request the Director, Organisational Culture & Communications Division (where the complainant is a student), or the Manager, Human Resource Development (where the complainant is a staff member or an external person), to convene an Appeals Committee in accordance with paragraph 5.6 in QMS 519 – Complaints.

4.15 Factors to be considered before providing an Individual with Access to Personal Information

4.15.1 If an individual requests access to their personal information, the individual/applicant will need to provide appropriate identification that may include student identification, drivers license, passport, or other forms of identification as the Privacy Officer considers appropriate. The Privacy Officer must consider the exceptions to providing access to information which include:

- a serious and imminent threat to the life or health of any person;
- serious threat – that is not necessarily imminent;
- unreasonable impact on the privacy of others;
- frivolous or vexatious requests;
- existing or anticipated legal dispute resolution proceedings;
- access would prejudice negotiations;
- access would be unlawful;
- denial of access is required or authorised by law;
- prejudice to investigation of unlawful activity.

4.15.2 Where an individual is not exempted from accessing their information, the Privacy Officer will arrange for the individual to be shown applicable documentation or computer print-outs.

4.16 Breach of Policy

4.16.1 If the Privacy Officer determines that there has been a breach of the policy, he or she will, upon notification of the determination to the complainant, advise relevant Institute personnel in writing and of any action required in order to remedy the breach. If the breach is capable of being rectified and is not rectified within thirty (30) days of the advice from the Privacy Officer, the Privacy Officer must inform the Chisholm Institute's CEO.

4.16.2 Disciplinary action may be instigated against any staff member who breaches the Privacy Policy and Procedure, which may result in the employee being summarily dismissed in circumstances where the Institute considers there has been a serious breach.

4.17 Records

4.17.1 The Privacy officer is responsible for maintaining a register and all records of privacy complaints received.

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5. FORMS AND ATTACHMENTS

5.1 Attachment 1 - Chisholm Institute Privacy Statement
5.2 Attachment 2 - Sending E-mail to External Groups – Use of BC (Blind Copy)

6. RELATED PROCEDURES

6.1 QMS 304 - Confidentiality - Student Information
6.2 QMS 309 - Enrolment - Student Under 16 Years
6.3 QMS 310 - Examinations
6.4 QMS 312 - Enrolment - International Students
6.5 QMS 316 - Excursions
6.6 QMS 317 - Practical Placement
6.7 QMS 318 - Attendance & Assessment Reporting
6.8 QMS 323 - Enrolment
6.9 QMS 325 - Student Misconduct
6.10 QMS 409 - Application & Selection - Student
6.11 QMS 501 - Research
6.12 QMS 506 - ITS Security and Usage
6.13 QMS 513 - Records
6.14 QMS 519 - Complaints
6.15 QMS 806 - Confidentiality - Staff Information
6.16 QMS 807 - Anti-discrimination & Sexual Harassment
6.17 QMS 816 - Staff Discipline
6.18 QMS 818 - Induction Process for Staff
6.19 QMS 820 - Recruitment & Selection - Staff
6.20 QMS 824 - Whistleblowers

7. REVIEW

This procedure is due for review: 27 April 2013

The process owner shall review this document twelve (12), months after initial publication and thereafter at twelve (12) monthly intervals.

8. KEYWORDS

QMS 505, Privacy, Privacy Information.

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