



THE UNIVERSITY OF
MELBOURNE

Privacy & FOI Case Studies

February 2013

Case Study 1 - Privacy

Police request for student information

Detective Johnson of Victoria Police has phoned the Engineering Student Centre requesting information about a student by the name of John Smith. Detective Johnson advises that John Smith has been potentially involved the burglary of a convenience store in North Carlton earlier this week.

Detective Johnson would like the Student Centre to provide a photograph, current residential address and telephone number of John Smith as this is information required for the prevention, detection, investigation and prosecution of a criminal offence.

Can the University disclose information about student John Smith without breaching its privacy obligations?

Answer

(related to IPP 2.1(g) - Disclosure to law enforcement authorities)

Reference: Privacy Procedure (<http://www.unimelb.edu.au/unisec/privacy/pdf/procedure.pdf>)

The University can disclose information about student John Smith, so long as the following steps are taken:

- Request should be in writing on letterhead or similar and signed by an officer of the rank of sergeant (or equivalent or above).
- The request should provide specific detail about the personal information being requested, in order for relevant University staff to decide whether or not disclosure is reasonably necessary.
- Decisions to release or withhold information must be made by the head of the relevant budget division or their authorised deputy (an officer with HR level 2 delegation), or a by a more senior officer.
- The decision-maker must take into account the requirements of IPP 2 i.e. that disclosure is necessary to lessen or prevent: (a) serious or imminent threat to a person's life, health, safety or welfare or a serious threat to public health, public safety or public welfare
- The decision-maker must contact the Privacy Officer for advice if in doubt
- Following the release of information, the decision-maker must provide a written summary of the release to the University Secretary

Case Study 2 - Privacy

Using photos of students taken on a field trip for marketing purposes

Students from the faculty of Architecture, Building and Planning are on a week-long field trip in Spain. A faculty staff member on the trip has been taking photos of the student group during various study activities undertaken during the week. The faculty plans to use these photos for marketing purposes eg. course handbooks, faculty website etc. and may also share the photos with other faculties and departments throughout the University to be used for more general marketing purposes.

What does the faculty need to do in order that use of the photos in this way complies with its privacy obligations?

Answer

(related to IPP 1.3 – Collection of personal information

IPP2.1 – Use & Disclosure of personal information)

A photograph is recorded information which is capable of identifying an individual. It is considered to be personal information

- When collecting personal information, you must advise an individual of the purposes for which the information is collected (similarly via a Privacy Collection Notice)
- In the case of photos, you can do this via a Photo Consent Form. Refer to <http://www.unimelb.edu.au/unisec/privacy/pdf/photo-use.pdf>
- The Photo Consent Form should state that the photos will be used for marketing and promotional purposes by the University (not just the relevant faculty, as the photos may be shared with other faculties and departments)
- Where a student has not provided a signed Photo Consent Form, make sure that this non-consent is noted, and that you do not use any photo which would identify that student.

Case Study 3 - Privacy

Use of personal information which has been collected by the University as part of a recent public event, attended by both alumni and members of the general public

A week-long event hosted by the University's faculty of Business and Economics concludes with a formal gala dinner, which includes a three-course meal, keynote speakers selected from the local business and government community, and opportunities for guests to make tax-deductible donations to the University. Guests pay a cost-per-head to attend this gala event, and must complete a registration form.

The registration form seeks compulsory information from guests including name, address and contact details, and dietary requirements. The registration form also includes optional fields including credit card details (in the event that guests wish to make a donation to the University), and details about affiliation with various political, business or social groups.

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Case Study 3 – Privacy continued

It is intended that all the information provided in the registration forms will be provided to the University's Advancement office to supplement their database of alumni and donor profiles, for example information about guests' kosher dietary requirements will be noted in relation to their ethnicity and religious belief, business or political affiliations will be noted in relation to a person's possible income range.

- 1) What must the University advise guests in relation to the collection of their personal information? What might individuals reasonably expect their information to be used for?*
- 2) Are there any special obligations relating to 'sensitive information' such as ethnicity, religious belief, and political or business/trade affiliations?*
- 3) How should this information be stored?*

Answer (

related to IPP 1.3 – Collection of personal information, IPP 2.1 – Use and Disclosure of personal information, IPP 4 – Data Security, IPP 10.1 – Sensitive Information)

- Form must include a Privacy Collection Notice . In this case, the Privacy Collection Notice should state that the information is being collected for the purpose of facilitating the gala event (primary purpose).
- Using the information for the purposes of updating the donor profile database would *not* be considered a ‘reasonably expected, related secondary purpose (particularly in the case of members of the general public as opposed to more active alumni) . Obtain consent to this secondary purpose. This consent should be done via an ‘opt-in’ box (and *not* an ‘opt-out’ box).
- Personal information must be collected in a lawful and fair means, and not in an unreasonably intrusive way, for example noting a person’s Jewish ethnicity or religious belief from their dietary preference is arguably ‘unreasonably intrusive’
- Information about a person’s ethnicity or religious belief, or political or business/ trade affiliation is sensitive information, and can only be collected with the individual’s consent
- The hard copy registration forms must be stored in a secure manner, and destroyed or de-identified when no longer required . Obtain advice from Finance and Planning about how credit card information must be handled as particular requirements apply

Case Study 1 – FOI & Subpoenas

A lawyer contacts the University in writing seeking documents on behalf of their client about testing undertaken by Engineering on truck weighbridges. What do you do?

Answer

- Recognise that this is most likely to be a Court matter or potential litigation matter (lawyer might be fishing for information to support their client's case).
- Refer the person to Legal Services (or the University Secretary's Department).
- Lawyer would be asked to submit an FOI application (where any applicable exemptions could be applied) or if it relates to existing Court proceedings, to issue a subpoena.

Case study 2 – FOI & Subpoenas

An applicant is seeking information about total student enrolments in 2011, including the percentage of international enrolments. Where should you direct them?

Answer

- Information about this can be found in the University's Annual Report – this is a public document and is available to the public on the University's website.
- If the report doesn't cover all of the information they want, direct them to Student Administration or Finance & Planning who may have publically available data.
- Last resort would be direct the person to the FOI process (a person should not have to resort to the FOI process for information which can easily be provided and which is known to be public information).

Case Study 3 – FOI & Subpoenas

A student from another University is seeking documents which show how much the University has paid a speaker to present at an upcoming conference about Climate Change.

Answer

- Unlikely to be publically available information. Payment to the speaker may be made via a contract with the University which is subject to confidentiality clauses.
- Refer the person to the FOI process so that any relevant exemptions could be considered before access to the document is provided.



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