

Information Sheet

General Privacy Obligations – Disclosure of Personal Information

1. Background – Obligations under the Privacy and Personal Information Protection Act 1998 (NSW)

Southern Cross University (*the University*) is required to comply with the *Privacy and Personal Information Protection Act 1998* (NSW) (*PPIP Act*). The PPIP Act applies to the University's collection, use, disclosure and handling of personal information. Personal information means information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

Among other things, the PPIP Act requires the University to ensure that personal information collected and held by it is protected against loss, unauthorised access, use, modification or disclosure and against all other misuse. It also restricts when and how personal information can be used or disclosed.

2. Purpose of this information sheet

This information sheet is designed to provide an overview of the University's obligations under the PPIP Act in relation to disclosures of personal information. It does not, however, describe the circumstances in which individual members of University staff may disclose personal information – those circumstances are instead set out in the "Requests for Information – Fact Sheet" and "Standard Operating Procedures for Security Staff". Please refer to those documents for further details.

University staff are only permitted to disclose personal information to a requesting third party in very limited circumstances and, except as outlined in the documents mentioned above, as a general rule, requests for disclosure of personal information should be escalated to the University Legal Office (or the appropriate person specified in the documents mentioned above).

3. The University's obligations in respect of disclosures of personal information

The question of whether the University may release personal information about an individual to an individual to whom the information relates, or to a third party requesting that information, will depend on the facts of each case.

At the request of an individual to whom the information relates, and without excessive delay or expense, the University must provide the individual with access to the information.

Personal information may be disclosed to a third party in the following circumstances:

- (i) if the individual has expressly consented to the disclosure;

- (ii) if the disclosure is directly related to the purpose for which the information was collected, and there is no reason to believe that the individual concerned would object to the disclosure;
- (iii) if the individual concerned is reasonably likely to have been aware, or has been made aware that information of that kind is usually disclosed to that third party;
- (iv) if the University 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 to whom the personal information relates, or another person.
- (v) if the disclosure is made in connection with proceedings for an offence or for law enforcement purposes;
- (vi) if the disclosure is made to a law enforcement agency for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person;
- (vii) if the disclosure is authorised or required by subpoena or by search warrant or any other statutory instrument;
- (viii) if the disclosure is reasonably necessary for the protection of public revenue; or
- (ix) if the disclosure is reasonably necessary in order to investigate an offence where there are reasonable grounds to believe that an offence may have been committed.
- (x) If the requested information relates an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership or sexual activities, **such information must not be disclosed** unless it is necessary to prevent a serious and imminent threat to the life or health of the individual to whom the personal information relates, or another person. However this tighter restriction does not apply if the disclosure is reasonably necessary for the purposes of law enforcement in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed.

4. Example situations

The following examples are intended to provide a better understanding of the circumstances in which the University is permitted to disclose personal information of an individual.

(a) An individual requests access to his/her own personal information.

Upon request, the University is required to promptly provide an individual with access to his/her own information without excessive delay or expense.

(b) A third party (who may be a person, company or other organisation), requests personal information about an individual in relation to a criminal matter where the individual is involved or suspected to be involved.

If the University has reasonable grounds to believe that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom the personal information relates or another person, disclosure of personal

information would be permitted. However, extra caution should be exercised where the information requested includes more sensitive types of information such as that outlined in Section 3(x) above. Please contact the University Legal Office for guidance.

Alternatively, disclosure by the University in the situation described in this Section 4(b) may be permitted if the requested disclosure is to be made in connection with proceedings for an offence or for law enforcement purposes, or pursuant to a subpoena or search warrant, or if reasonably necessary in order to investigate an offence where there are reasonable grounds to believe that an offence may have been committed. Please contact the University Legal Office for guidance.

(c) A third party requests information in relation to obtaining details of a student's next of kin.

Disclosure of next of kin details by the University to a third party may be permitted, particularly, for example, in emergency situations. For example, if there are reasonable grounds to believe that disclosing next of kin details is necessary to prevent a serious and imminent threat to the life or health of the individual concerned, or another individual, the disclosure would likely be permitted.

(d) A third party requests information in relation to a traffic matter.

The University may disclose information in relation to a traffic matter if requested by a police officer provided an incident report number has been issued by the police for the traffic matter in question.

5. Questions and further information

If you have any queries in relation to this information sheet or require any further information in relation to disclosures of personal information, please contact the University Legal Office on (02) 6620 3465 or email legal@scu.edu.au.

Updated: 5 February 2018