

## Disclosing Personal Information about Students and Staff

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| First Produced:  | 9/7/93  | Authorisation:       | Te Kāhui Manukura  |
| Current Version: | 14/12/2020  | Officer Responsible: | Deputy Chief Executive, Chief Operating Officer<br>Privacy Officer |
| Past Revisions:  | 02/4/94, 14/3/96, 16/6/97, 14/12/01, 14/03/07, 30/04/12, 12/07/16, 13/07/20 |                      |  |
| Review Cycle:    | 5 years or as legislation requires  |                      |  |
| Applies From:    | Immediately   |                      |  |

# 1 Introduction

## 1.1 Purpose

Personal information collected and/or held by Ara Institute of Canterbury Limited (Ara Ltd), including all information about any identifiable student or staff member, is covered by the Information Privacy Principles. Because such information can inadvertently be misused, staff who have access to personal information about students and/or other staff must be aware of and comply with the procedures set out in the policy including the twelve Information Privacy Principles. When in doubt, staff must consult the Privacy Officer before taking action.

## 1.2 Scope and Application

This policy applies to all personal information collected and/or held by Ara Ltd about any person and, in particular about people enrolled as students or employed as staff.

## 1.3 Formal Delegations

Ara Ltd's designated Privacy Officer can assist with interpretation or clarification of this policy and is authorised to make or approve exceptions to the policy.

## 1.4 Definitions

- a **Evaluative Opinion:** Material compiled for the purpose of determining the suitability, eligibility, or qualifications of an individual for employment, appointment to office, promotion, continuance in office, removal from employment or office, or the awarding, continuing, modifying, or cancelling of contracts, awards, scholarships, honours, or other benefits.
- b **Information Privacy Principles (IPPs):** The Privacy Act sets out the thirteen Information Privacy Principles (IPPs) which form the basis on which all issues of the privacy of personal information are determined. Everyone who has access to the personal information Ara Ltd collects and/or holds must understand and comply with these basic principles.
- c **Personal Information:** Any information about an identifiable individual (an individual is 'a natural person other than a deceased natural person'). Personal information includes records of attendance and student marks, assessments, grades, and results. At Ara Ltd personal information does NOT include a person's name nor the fact that she or he is or is not currently enrolled or employed at Ara Ltd.
- d **Privacy Act:** The Privacy Act 2020 #31 30 June 2020 which came into force on 1 December 2020 and its subsequent amendments. Part 3 of the Act sets down the Information Privacy Principles and codes of practice.

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- e **Privacy Officer:** The person identified by the Institute as the Privacy Officer as required by s201 of the Privacy Act 2020. The responsibilities are set out in the same section.
- f **Staff Member:** In this policy, any person who has applied for employment or has been employed or is currently employed or contracted by Ara Ltd.
- g **Student:** In this policy, any person who has applied for enrolment or has been enrolled or is currently enrolled at Ara Ltd.
- h **Third Party:** In this policy, the first party is Ara Ltd, the second party is the individual concerned (the student or staff member or other individual), and the third party is anyone else.

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| <p><b>Related Ara Ltd Procedures and Forms</b> (indicate if attached to policy or where they can be found)</p> <ul style="list-style-type: none"> <li>• <a href="#">CPP208a Staff complaints about staff process flowchart</a></li> <li>• <a href="#">CPP208b Staff complaints about students process flowchart</a></li> </ul> | <p><b>Related Ara Ltd Policies</b></p> <ul style="list-style-type: none"> <li>• <a href="#">APP301 Student Rights and Responsibilities</a></li> <li>• <a href="#">APP505 Assessment</a></li> <li>• <a href="#">APP508 Moderation</a></li> <li>• <a href="#">CPP110 Legislative Compliance</a></li> <li>• <a href="#">CPP116 Protected Disclosures</a></li> <li>• <a href="#">CPP123 Data Governance</a></li> <li>• CPP403 Staff ID and Related Security</li> <li>• <a href="#">CPP208 Resolving Employee Performance or Conduct Issues</a></li> <li>• <a href="#">CPP211 Professional Code of Practice</a></li> </ul> |
| <p><b>Related Legislation or Other Documentation</b></p> <p><a href="http://www.legislation.govt.nz/act/public/2020/0031/latest/LMS23223.html">http://www.legislation.govt.nz/act/public/2020/0031/latest/LMS23223.html</a></p>  | <p><b>Good Practice Guidelines</b>(indicate if attached to policy or where they can be found)</p>   |
| <p><b>References</b></p> <ul style="list-style-type: none"> <li>• A template for an Authority to Disclose Specified Personal Information is available from the Privacy Officer</li> </ul>  |   |
| <p><b>Notes</b></p>  |   |

## 2 Principles

- 2.1 Ara Ltd complies with the Privacy Act 2020 and its subsequent amendments.
- 2.2 Ara Ltd will maintain confidentiality on a lawful need to know basis at all times.
- 2.3 Ara Ltd will manage any complaints of interference with privacy fairly, swiftly and effectively in accordance with the relevant current legislation and Ara Ltd policies.
- 2.4 The Privacy Act 2020 sets out thirteen Information Privacy Principles (IPPs) which form the basis on which all issues of the privacy of personal information are determined. Everyone who has access to the personal information Ara Ltd collects and/or holds must understand and comply with these basic principles.

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## The Information Privacy Principles (IPPS)

- 1 Principle One: Purpose** of collection of personal information  
Ara Ltd can only collect personal information which is for a **lawful** purpose and **necessary** for us to carry out our functions and activities.
- 2 Principle Two: Source of personal information**  
The personal information must be collected **directly** from the individual concerned unless that is not reasonably practicable.
- 3 Principle Three: Collection of information from subject**  
The individual must be made aware of the following points:

  - the information is being collected
  - the purpose for which the information is being collected
  - the intended recipients of the information
  - the name and address of the agencies collecting and holding the information
  - the particular law, if any, authorising the collection
  - whether supplying the information is voluntary or mandatory
  - the consequence of not supplying the information
  - the rights of access to and correction of the information held
- 4 Principle Four: Manner** of collection of personal information  
Information must not be collected by **unlawful** or **unfair** or **intrusive** means.
- 5 Principle Five: Storage and security** of personal information  
Ara Ltd must ensure that there are **security safeguards** to protect personal information from **loss and unauthorised access, use, modification, or disclosure**.
- 6 Principle Six: Access** to personal information  
The individual concerned is entitled to know **whether or not** Ara Ltd holds personal information about her/him, and, if it does, to have **access** to the personal information.
- 7 Principle Seven: Correction** of personal information  
The individual concerned is entitled to request **correction** of information and, if a correction is not made, to have a note attached to the information.
- 8 Principle Eight: Accuracy** etc of personal information to be checked before use  
Ara Ltd must take reasonable steps to ensure that the information it is using is **accurate, up to date, complete, relevant, and not misleading**.
- 9 Principle Nine:** Agency not to keep personal information for **longer than necessary**  
Personal information must not be kept **longer than is required** for its proper purpose.
- 10 Principle Ten: Limits on use** of personal information  
Ara Ltd can only use information for the **original purpose** unless the new use is authorised by the individual concerned.

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## 11 Principle Eleven: Limits on disclosure of personal information

Ara Ltd must **not disclose** personal information to a third party except in strictly limited circumstances. It is not necessary to comply with IPP11 if:

- disclosure is one of the stated purposes for which the information was collected
- the individual concerned authorises disclosure
- the information is already publicly available
- the information is anonymous or will only be used for statistical purposes
- the collection/disclosure is required by a particular law
- the information is needed for certain legal purposes including prevention, detection, investigation, prosecution, and punishment of offences or the conduct of proceedings before any court or tribunal
- disclosure is necessary to prevent or lessen a serious and imminent threat to public health or safety, or the life or health of an individual
- disclosure is necessary as part of the sale of a business

## 12 Principle Twelve: Disclosure of personal information outside New Zealand

- If Ara Ltd is to disclose information to a foreign person or entity they must either:
- Be reasonably satisfied that the foreign person or entity is subject to laws which provide comparable safeguards as the Act, or agrees to be bound by comparable safeguards as those found in the Act (for example in a contract with the New Zealand agency); or
- Have expressly informed the individual that the foreign entity or person may not be required to protect the information in a way that provides comparable safeguards and must obtain the individual's authorisation to the disclosure on that basis.

There is an important exception in IPP12: sending information offshore to be stored or processed by an agent (for example, a cloud storage provider) will not be treated as a "disclosure" if the agent does not use the information for its own purposes. However, in this situation the agency who sent the information offshore will be responsible for ensuring their agent adheres to New Zealand's privacy safeguards as found in the Act.

## 13 Principle Thirteen: Unique identifiers

Ara Ltd must not use a "unique identifier" which has been **assigned by another agency**.

## Confirmation of Enrolment or Employment

The fact that a named individual is enrolled as a student (or not enrolled or no longer enrolled) or employed as a staff member (or not employed or no longer employed) at Ara Ltd can be disclosed to third parties. No other personal information can be disclosed except as allowed by the IPPs.

## Exceptions

There are sensible, carefully defined exceptions to almost every principle. There is special provision within the Privacy Act to cover "evaluative material" such as references.

## Complaints

Any person may make an oral or written complaint to the Privacy Commissioner or an Ombudsman if she/he believes there has been a breach ("an interference") of any of the IPPs.

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### **3 Associated procedures for Ara Ltd Corporate Policy on: Disclosing Personal Information about Students and Staff**

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#### **3.1 Application of and Exceptions to the Information Privacy Principles**

The thirteen Information Privacy Principles (IPPs) form the basis of all decisions on privacy and the handling of personal information. Everyone who has access to the personal information Ara Ltd collects and/or holds must understand and comply with these basic principles.

There are sensible (and carefully defined) exceptions to almost every Principle. There may be no need to comply with the principles on use and disclosure if, for example, Ara Ltd has stated clearly that the information will be disclosed, or the individual concerned authorises disclosure, or the information is already publicly available, or the information is only in statistical form, or the collection and/or disclosure of the information is required by a particular law.

Nevertheless, the starting point is to apply the principles in full and then decide on, justify, and record the reasons for not complying with any of them.

Ara Ltd management and administration (and in particular the Privacy Officer) are responsible for ensuring that all the principles are complied with or that there is good reason for not complying.

If in doubt about an issue involving the privacy of personal information about a student or staff member, consult the Privacy Officer.

#### **3.2 Ara Ltd Compliance**

All Ara Ltd information, forms, systems, and processes which seek, record, or hold personal information must comply with the Information Privacy Principles, especially IPP 3.

#### **3.3 Disclosure of Personal Information re Students or Staff to Third Parties**

a The Fact of Enrolment or Employment

The simple fact that a named individual is enrolled as a student (or not enrolled or no longer enrolled) or employed as a staff member (or not employed or no longer employed) can be disclosed in response to any enquiry. No special authority is required to make this simple disclosure to a third party but all other personal information is protected.

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b Requests from Agencies Named on Forms

Some requests for personal information about students are covered by the statements on application, registration, enrolment, and related forms. Providing the request comes from one of the specified bodies, is in writing, and is clearly related to the purpose for which the information was collected and is held, the information can be disclosed. Note: the list of agencies for international students differs from that for domestic students.

c Requests from Other Agencies

Enquiries from other agencies normally come with a clear statement that the individual has authorised the request or a clear reference to the enquirer's statutory right to the information.

If an enquiry of this sort is made verbally (in person or by phone), the enquiry should be accepted but NOT answered immediately. The name, designation or rank, and contact phone number of the enquirer should be taken, and the details of the request and the reference or reason carefully noted. The information can then be researched, and further advice sought from the Privacy Officer.

d Requests for Addresses or Other Means of Contact

Many requests are from parents, relatives, and friends wanting to get in touch with students. Addresses and other contact details should NOT be disclosed except in emergencies. Not all such requests are innocent or well-intentioned; some students have good reason for keeping their contact details private.

General, non-urgent enquiries should be politely declined with a brief explanation that Ara Ltd policy protects the information requested from casual disclosure.

Specific but non-urgent enquiries from parents, relatives, or friends may be handled by offering to deliver a message asking the student or staff member to contact the enquirer. This is not compulsory and depends on the circumstances. If the offer is made, the procedure is to carefully note the enquirer's name, a contact phone number or address, and an indication of when the enquirer can be contacted.

The enquirer should be told that, given the size and complexity of Ara Ltd, it might not be easy or quick to contact the student or staff member and that no guarantee of delivery can be given.

The message should then be conveyed to the student or staff member as directly and quickly as possible either in person, in writing or by text or email.

e Emergency Messages

Delivery of genuine emergency, 'life and death' messages should be arranged as quickly and calmly as possible through a senior member of staff (for example, the Privacy Officer, a member of Te Kāhui Manukura, Deputy Chief Executive, Head of Department, Programme Leader, or Administration Manager).

f Requests from Parents and Employers for Progress Reports

Parents or employers often seek reports about their child's or employee's attendance or progress. Parents and employers have no special right to a child's or employee's personal information even if they paid the fees or allowed time off.

In keeping with IPP2 and to reduce administrative work, every effort should be made to persuade parents and children and employers and employees to deal directly with each other. If that is not possible, the student's authorisation can be sought either by the parent/employer or by Ara Ltd. A template is available from the Privacy Officer.

g Other Requests from Third Parties

Except for the information referred to in 3.3, all other requests should be politely declined or referred to the Privacy Officer.

### **3.4 Details regarding Board and Staff**

The names of Board members, and Te Kāhui Manukura are published in the Annual Report. Names and addresses of Board members can be disclosed. Names, designations and contact details (but NOT private contact details) of Te Kāhui Manukura and other staff members can be disclosed.

### **3.5 Public Display of Student Assessment Results**

Student attendance records and marks, assessments, grades, and results are personal information. Care must be taken to communicate them only to the individual concerned unless there is explicit written authority to disclose them to an agent (see 3.9 below). It is a breach of the Information Privacy Principles if such information is displayed, announced, or published whether on paper or by electronic medium in a format which includes a student's name or any other identifier which could reasonably be expected to be 'readable' by a third party.

There are circumstances where individual private notification of results would be administratively very demanding and would cause delays which could disadvantage or inconvenience individual students. In such circumstances, it is permissible to display or announce or publish students' marks, assessments, grades, or results publicly providing that:

- a No names or other easily readable/decipherable/identifiable references or codes are used; AND
- b A private student PIN number or other private code is used (for example, the last six digits of the Ara Ltd ID number); AND
- c The order of the results is "shuffled" before publication so that they do not appear in what would be alphabetical order.

Such a display, announcement, or publication would meet the requirements of IPP5 and would not breach IPP11. Questions about this limited and controlled exception to our standard procedures should be directed to the Privacy Officer.

### **3.6 Moderation**

In order to meet internal and external academic quality assurance requirements, student assignments, tests, and examination results may be used for the purposes of:

- a Internal and external moderation
- b Monitoring and audit
- c Programme review
- d Aegrotat decisions
- e Resolution of academic appeals and complaints
- f Academic research approved by the Ara Ltd Ethics Sub-Committee

Assessment materials used for these purposes will have any information which could reasonably be expected to identify the individual removed before they are copied and used unless the identity of the student is required for the purpose undertaken.

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### **3.7 Internal and External Audit**

From time to time internally and externally appointed auditors select staff appraisal documents, professional development records, student records or other details for inspection to ensure that Ara Ltd is meeting the expected standards. Similarly, Audit New Zealand may need to verify payroll and other financial transactions.

Documents selected will be made available to the Auditors on a confidential basis for the restricted purpose of academic or financial auditing by properly authorised auditors.

### **3.8 Academic and Enrolment Appeals**

Relevant personal information will be disclosed to members of the Academic or Enrolment Appeals Committees hearing appeals initiated by the student.

### **3.9 References and Evaluative Opinion**

References and similar reports and recommendations (including those related to staff promotion/re-grading) are one form of 'evaluative opinion'. If the reference or similar report or recommendation has been sought with an explicit or implicit promise that it will be kept confidential, it is protected from disclosure to the individual concerned. This is discretionary, that is, the person who provided the reference can agree to it being disclosed to the individual concerned.

### **3.10 Police Requests**

The Information Privacy Principles apply to requests from the Police and, in some cases, complex issues under the Bill of Rights Act 1990 ss 5, 21, and 22 may be involved.

Most Police requests are answered because one of the exceptions to IPP11 allows non-compliance when an offence is being prevented, detected, investigated, prosecuted, or punished.

Ara Ltd also cooperates when the Police ask to contact a student or staff member on campus. However, the following in-house rules apply:

- a No police officer is to interview a student in a teaching situation.
- b The prior approval of a member of the Te Kāhui Manukura or the Privacy Officer is required for a student or staff member to be interviewed on Ara Ltd premises.
- c The person being interviewed has the right to be accompanied by another person (for example, the DCE or Department Head, a Staff Union advocate, Student Advocate, or a lawyer) if s/he wants that support.

### **3.11 Agents**

A person seeking personal information may appoint an agent to discuss or action a request. The agent must have the written authority of the individual concerned. The authority must be reasonably specific as to the personal information concerned and what rights the agent has been authorised to exercise.

### **3.12 Compliance**

In the event of alleged breaches of this policy please refer to these Ara Ltd Corporate Policies:

- CPP208 Resolving Employee Performance or Conduct Issues
- CPP211 and 211a Code of Professional Conduct

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