Privacy and Personal Information

First Produced:	9/7/93	Authorisation:	Te Kāhui Manukura (TKM)
Current Version:	17/11/25		
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, 31/10/22	Officer Responsible:	Director – Strategy, Planning, Performance
Review Cycle:	5 years or as legislation requires		Privacy Officer
Applies From:	Immediately		

1 Introduction

1.1 Purpose

The purpose of this policy is to raise awareness and provide guidance with respect to privacy obligations and personal information collected and/or held by Ara Institute of Canterbury (Ara). This includes all personal information about any identifiable learner or colleague. This policy is subject to the Privacy Act 2020, and the requirements imposed by the Information Privacy Principles.

1.2 Scope and Application

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

1.3 Formal Delegations

Ara'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 2020 sets out the thirteen 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 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 learner marks, assessments, grades, and results. At Ara personal information does NOT include a person's name nor the fact that they are or are not currently enrolled or employed at Ara.

d **Privacy Act:** The Privacy Act 2020 which came into force on 1 December 2020 and its subsequent amendments. Part 3 of the Act sets down the IPPs and codes of practice.

e **Privacy Officer:** The person identified by Ara as the Privacy Officer as required by s201 of the Privacy Act 2020. The responsibilities are set out in the same section.

f **Colleague:** In this policy, any person who has applied for employment or has been employed or is currently employed or contracted by Ara.

g **Learner:** In this policy, any person who has applied for enrolment or has been enrolled or is currently enrolled at Ara.

h **Third Party:** In this policy, the first party is Ara, the second party is the individual concerned (the learner, colleague, or other individual), and the third party is anyone else.

Related Ara Procedures and Forms	**Related Ara Policies**
• CPP208a Staff complaints about staff process flowchart • CPP208b Staff complaints about students process flowchart	• APP301 Student Rights and Responsibilities • APP505 Assessment • APP508 Moderation • CPP110 Legislative Compliance • CPP116 Protected Disclosures • CPP123 Data Governance • CPP403 Staff ID and Related Security • CPP208 Resolving Employee Performance or Conduct Issues • CPP211 Professional Code of Practice
Related Legislation or Other Documentation • Privacy Act 2020 • The Privacy Commissioner • The Ombudsman	**Good Practice Guidelines**
References • A template for an Authority to Disclose Specified Personal Information is available from the Ara Privacy Officer	
Notes	

2 Principles

2.1 Ara complies with the Privacy Act 2020 and its subsequent amendments.

2.2 Ara will maintain confidentiality on a lawful need to know basis at all times.

2.3 Ara will manage any complaints of interference with privacy fairly, swiftly, and effectively in accordance with the relevant current legislation and Ara policies.

2.4 The Privacy Act 2020 sets out thirteen 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 collects and/or holds must understand and comply with these basic principles.

3 Associated procedures for Ara Corporate Policy on: Disclosing Personal Information about Learners and Colleagues

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3.1 Application and Exceptions to the IPPs

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

b There are sensible (and carefully defined) exceptions to almost every principle. There may be no need to comply with the IPPs on use and disclosure if, for example, Ara has stated clearly that –

i The information will be disclosed

ii The individual concerned authorises disclosure

iii The information is already publicly available

iv The information is only in statistical form

v The collection and/or disclosure of the information is required by a particular law

c Nevertheless, the starting point is to apply the IPPs in full and then decide on, justify, and record the reasons for not complying with any of them. Ara management, administration and the Privacy Officer are responsible for ensuring that all the IPPs are complied with or that there is a justified exception for non-compliance. If in doubt about an issue involving the privacy of personal information about a learner or colleague, consult the Privacy Officer.

3.2 Ara Compliance

a All Ara information, forms, systems, and processes which seek, record, or hold personal information must comply with the IPPs, especially IPP 3.

3.3 Disclosure of Personal Information re Learners or Colleagues to Third Parties

a **Enrolment or Employment at Ara**

i The simple fact that a named individual is enrolled as a learner (or not enrolled or no longer enrolled) or employed as a colleague (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.

b **Requests from Agencies Named on Forms**

i Some requests for personal information about learners 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. The list of agencies for international learners differs from that for domestic learners.

c **Requests from Other Agencies**

i 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.

ii 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.

iii Where possible, all requests should be received in written form. This may include through Ara's online privacy form, email, or written text.

iv Ara reserves the right to request further clarifications on requests where appropriate before making the decision to disclose personal information.

d **Requests for Addresses or Other Means of Contact**

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

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

iii Specific but non-urgent enquiries from parents, relatives, or friends may be handled by offering to deliver a message asking the learner or colleague 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.

iv The enquirer should be told that, given the size and complexity of Ara, it might not be easy or quick to contact the learner or colleague and that no guarantee of delivery can be given.

v The message should then be conveyed to the learner or colleague as directly and quickly as possible either in person, in writing or by text or email.

e **Emergency Messages**

i Delivery of genuine emergency, 'life and death' messages should be arranged as quickly and calmly as possible through a senior colleague (for example, the Privacy Officer, a member of TKM, Chief Executive, Director, Dean of Faculty, Portfolio Manager, or Operations Manager).

f **Requests from Parents and Employers for Progress Reports**

i 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.

ii 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. A template is available from the Privacy Officer.

g **Other Requests from Third Parties**

i 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 Colleagues

a The names of Council members and TKM are published in the Annual Report.

b Names and addresses of Council members can be disclosed.

c Names, designations and contact details (but NOT private contact details) of TKM and other colleagues can be disclosed.

3.5 Public Display of Learner Assessment Results

a Learner 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.

b It is a breach of the IPPs 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

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

i No names or other easily readable references or codes are used, AND

ii A private student PIN number or other private code is used (for example, the last six digits of the Ara ID number), AND

iii The order of the results is "shuffled" before publication so that they do not appear in what would be alphabetical order.

d 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

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

i Internal and external moderation

ii Monitoring and audit

iii Programme review

iv Aegrotat decisions

v Resolution of academic appeals and complaints

vi Academic research approved by the Ara Ethics Sub Committee

b 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 learner is required for the purpose undertaken.

3.7 Internal and External Audit

a From time to time internally and externally appointed auditors select colleague appraisal documents, professional development records, learner records or other details for inspection to ensure that Ara is meeting the expected standards. Audit New Zealand may also 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

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

3.9 References and Evaluative Opinion

a References and similar reports and recommendations (including those related to colleague 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

a The IPPs 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.

b Ara also cooperates when the Police ask to contact a learner or colleague on campus. However, the following in-house rules apply –

i No police officer is to interview a learner in a teaching situation.

ii The prior approval of a member of TKM or the Privacy Officer is required for a learner or colleague to be interviewed on Ara premises.

iii The person being interviewed has the right to be accompanied by another person (for example, the Chief Executive or Dean of Faculty a Staff Union advocate, Student Advocate, or a lawyer) if they want that support.

3.11 Agents

a 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; and 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

a In the event of alleged breaches of this policy please refer to these Ara Corporate Policies.

i CPP208 Resolving Employee Performance or Conduct Issues

ii CPP211 Code of Professional Practice

b The Privacy Officer should be immediately notified when a breach of policy is identified.

c If a privacy breach is confirmed, the Privacy Officer will assess the breach and its severity. Should be breach be of a sufficient severity, Ara may take actions including but not limited to notification of breach to impacted individuals, or notification to the Office of the Privacy Commissioner. Ara will take all reasonable steps to mitigate a breach of privacy.

d Ara will endeavour to report privacy breaches where there is a risk of serious harm being caused to impacted individuals to the Office of the Privacy Commissioner within 72 hours of the breach being identified in line with the requirements of the Privacy Act 2020.

e In cases of low impact privacy breaches where there is no risk of serious harm, Ara reserves the right to take action internally without notice to any external parties.

4 The Information Privacy Principles (IPPS)

4.1 Ara may only collect personal information which is for a lawful purpose and necessary for Ara to carry out our functions and activities.

4.2 The personal information must be collected directly from the individual concerned unless that is not reasonably practicable.

4.3 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.

4.4 Information must not be collected by unlawful or unfair or intrusive means.

4.5 Ara must ensure that there are security safeguards to protect personal information from loss and unauthorised access, use, modification, or disclosure.

4.6 The individual concerned is entitled to know whether or not Ara holds personal information about them, and, if it does, to have access to the personal information.

4.7 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.

4.8 Ara must take reasonable steps to ensure that the information it is using is accurate, up to date, complete, relevant, and not misleading.

4.9 Personal information must not be kept longer than is required for its proper purpose.

4.10 Ara can only use information for the original purpose unless the new use is authorised by the individual concerned.

4.11 Ara 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.

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

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