Goulburn Ovens Institute of TAFE

Policy No. PRHR-173

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Title: Freedom of Information Procedure

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Responsible Officer: Executive Manager Human Resources

Authorising Officer: CEO

Review: Biennial (16th December 2018)

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# FREEDOM OF INFORMATION PROCEDURE

## 1. PURPOSE

GOTAFE is a body established for a public purpose and therefore an "agency" under the Victorian *Freedom of Information Act 1982* (FOI Act). Members of the public have a right of access to documents created or held by GOTAFE. This Procedure aims to ensure compliance with GOTAFE's obligations under the FOI Act and promote a consistent approach to the handling of applications under that scheme.

This procedure sets out the expectations of individuals relating to the provision of rights of access to certain documents held by GOTAFE. It ensures that members of GOTAFE comply with the requirements contained in the FOI Act.

#### 2. SCOPE

This procedure applies to all members of the GOTAFE community, including employees, students, contractors and any member of Public who wishes to access potentially sensitive information.

#### 3. **DEFINITIONS**

For the purposes of this Procedure:

Term	Definition
Agency	Means GOTAFE, and any person contracted to carry out work on behalf of GOTAFE during the period of that contract;
Document	Includes, in addition to a document in writing:
	(a) any book, map, plan, graph or drawing;
	(b) any photograph;
	(c) any label marking or other writing which identifies or describes anything of which it forms part, or to which it is attached by any means whatsoever;
	(d) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;
	(e) any film, negative, tape or other device in which one or more visual images are embodied so as to be capable (as aforesaid) of being reproduced therefrom;
	(f) anything whatsoever on which is marked any words, figures, letters or symbols which are capable of carrying a definite meaning to persons conversant with them;

Term	Definition
	(g) any copy, reproduction or duplicate of anything referred to in paragraphs (a) to (f) above; and
	(h) any part of a copy, reproduction or duplicate referred to in paragraph (g) above,
	but does not include such library material as is maintained for reference purposes.
Privacy	The Privacy Officer for GOTAFE is the Chief Operating Officer, or designate.
Officer	Note: The <b>Privacy Officer</b> has a delegated responsibility, from the <b>Principal Officer</b> , to receive and process FOI requests.
Principal Officer	Means the Chief Executive Officer (CEO) of GOTAFE.

# 4. PROCEDURE

Item	Action/Comment	Responsibility
1.	Requests for documents	
	Where there is a general request made for a document and the FOI Act is not mentioned by the applicant, the Privacy Officer or delegate will decide if the request is routine. The request need not be referred to the Privacy Officer if the document is normally available for public scrutiny or is otherwise available to specified individuals under Institute policy or the law.	Applicant / Privacy Officer
	If a document is regarded as sensitive, the document should not be released and the enquirer should be advised to make an FOI request	
	Applicants must lodge a <i>Freedom of Information Request Form</i> , accompanied by the application fee as set by the <u>Victorian Government</u> . A request may be made by one person on behalf of another person or group, or by an organisation (such as a law firm) on behalf of a client or member.	
	The FOI Act requires applicants to state their requests clearly enough for relevant documents to be identified and requires the agency to assist the applicant if needed. The Privacy Officer is not required to conduct a general search for documents until it is clear which documents are being sought by an applicant. Work begins on a request only when it is sufficiently specific and clear.	
2.	Fees and charges	Privacy Officer
	Applications made under the FOI Act will generally incur a fee.	
	These fees will be charged as defined within the Freedom of Information (Access Charges) Regulations 2014. For further information, please visit http://www.ocpc.vic.gov.au.	
3.	Access to documents	Drive av Office -
	The Privacy Officer makes the decision about access to documents and advises applicants in writing. Under the FOI Act this <b>must be done within 45 days</b> of receiving a request that is	Privacy Officer

Item	Action/Comment	Responsibility
	clear enough for relevant documents to be identified. The decision in each case may be that access is granted in full, granted in part or denied in full. The Privacy Officer must advise the applicant if a document has been lost, has never existed or has been destroyed.	
	Access can be granted to parts of documents. If part(s) of the information is regarded as exempt from disclosure according to the categories of exceptions specified by FOI Act, the exempt material may be deleted from the copies which are released to the applicant.	
	Employee and Student Files	Employee
	While requests for the following types of documents are handled at GOTAFE outside the FOI Act, a dissatisfied applicant would not, under law, be prevented from placing an FOI request. GOTAFE therefore use the FOI Act and Regulations as a guide in making decisions about access. Documents which are personal to a student or employee are not to be released to a third party without prior consent, unless authorised by law.	
	Employee files	
	Employees of GOTAFE may gain access, outside of the requirements of the FOI Act, to their personnel files through Human Resources. Access to these files will not include any documents regarded as sensitive, such as referees' reports. Employees that wish to have access to any personal documents not on their files must lodge an FOI request with the GOTAFE Privacy Officer.	
	Student files	
	Current and non-current students wishing to view their student file may contact the GOTAFE Registrar.	Student
4.	Exempt documents	Drive av Office a
	The FOI Act allows for requested documents to be withheld where they are considered to be exempt from release. The Privacy Officer will therefore consider, in relation to the provisions of the FOI Act, any document regarded as possibly exempt and decide whether it should be released, released with exempt details deleted, or fully withheld.	Privacy Officer
	A document or part of a document can be regarded as exempt if (among other things):	
	it is an internal "deliberative process" or draft document and its release would not appear to be in the public interest (exempt under Section 30 of the FOI Act );	
	it would be privileged from production in legal proceedings on the ground of legal professional privilege (exempt under Section 32 of the FOI Act);	
	it concerns the personal affairs of a person or persons who have not initiated the request (exempt under Section 33 of the FOI Act );	
	it is information communicated in confidence by or to GOTAFE (exempt under Section 35 of the FOI Act);	
	it is a referee's report (a particular instance of the preceding	

Item	Action/Comment	Responsibility
	category);	
	its release would disadvantage GOTAFE or another organisation commercially (exempt under Section 34 of the FOI Act); or	
	it is seen to be covered by one or more of the other exemptions provided for by the FOI Act.	
	Additionally, section 78 of the <i>Protected Disclosure Act 2012</i> (Vic) excludes the application of the FOI Act to any document that relates to a disclosure made under the <i>Protected Disclosure Act 2012</i> . Refer to GOTAFE's <i>Protected Disclosure (Whistleblower) Procedure</i> for additional information.	
	For a complete listing and explanation of the exemptions refer to the legislation by clicking the following <i>Freedom of Information Act</i> 1982.	
5.	Request for review	
	When an applicant is dissatisfied with the <i>Privacy Officer's</i> decision not to release all or part of a requested document, under the <i>Act</i> the applicant has <b>28 days</b> to lodge a request for a review of the decision with the Freedom of Information Commissioner, who then has <b>30 days</b> to make a determination.	Applicant/FOI Commissioner
	If an applicant wishes to apply for a review of the <i>Privacy Officer's</i> decision or the <i>Freedom of Information Commissioners'</i> decision, an appeal should be lodged in writing with the Victorian Civil and Administrative Tribunal (VCAT) within <b>60 days</b> of the date on which the applicant receives the decision from the Principal Officer or Freedom of Information Commissioner.	Applicant
6.	Complaints	
	The Freedom of Information (FOI) Commissioner may direct enquiries to GOTAFE as a result of an applicant's complaint about the handling of an FOI request. Applicants are entitled to complain to the FOI Commissioner if they are informed by, and do not accept advice from, the Privacy Officer that a document has been lost, destroyed or does not exist, or if a request has not been handled according to the provisions of the FOI Act. A person may also complain to the FOI Commissioner about an administrative procedure or decision which appears to him or her as unjustified or contrary to law, or if they dispute access costs applied to their request.	Applicant/FOI Commissioner
7.	Records management	Drive and Office and
	The Principal Officer is responsible for the appropriate retention of Institute records under the FOI Act. An employee who is in doubt about whether a document is a document of GOTAFE under the FOI Act, should discuss with the <b>Privacy Officer</b> as to whether a document may be destroyed.	Privacy Officer/ Employee

Item	Action/Comment	Responsibility
8.	Requests to amend a record	Applicant
	Under Section 39 of the FOI Act, an applicant may request in writing the correction or amendment of a record that has been previously released to him/her under the FOI Act and relates to himself/herself if it is inaccurate, incomplete, out of date, or where it would give a misleading impression. Applicants cannot request that a record be deleted. GOTAFE has <b>30 days</b> to respond to such a request.	Privacy Officer

## 5. DOCUMENTATION

- Privacy and Freedom of Information Policy OD7
- Freedom of Information Request Form FHR-101
- Protected Disclosure (Whistleblower) Policy POHR-11
- <u>Tendering Procedure B19-P21</u>
- Freedom of Information Act 1982
- Privacy and Data Protection Act 2014
- Health Records Act 2001