

Privacy Policy

Policy Number:	OD7	Original Issue:	5/11/2014 (Previously Privacy and Freedom of Information Policy).
Responsible Officer:	Executive Director, Strategy and Governance	Current Version:	19/01/2021
Authorised Officer:	Chief Executive Officer	Due for review	Annual 18/01/2022

PURPOSE

The purpose of this Privacy Policy (the Policy) is to ensure that Personal Information Sensitive Information and Health Information of GOTAFE's employees, clients and students, whether past, present or prospective, are dealt with in accordance with the Privacy and Data Protection Act 2014 (Vic) (PDPA) and the Health Records Act 2001 (Vic) (HRA).

This Policy aims to assist GOTAFE representatives to comply with their privacy obligations.

The Policy supports the behaviours provided in the GOTAFE Employee Code of Conduct and Code of Conduct for Employees of Victorian Public Entities.

The Policy's supporting procedure outlines the obligations of staff to ensure consistent treatment of confidential information, and to at all times act in accordance with legislation and policies relating to dealing with private information.

POLICY STATEMENT

In order to conduct its business, GOTAFE may need to collect Personal Information, Sensitive Information and/or Health Information about its employees, students and clients. If GOTAFE is reasonably required to collect such information, GOTAFE will only handle this information in accordance with the Information Privacy Principles (IPP) and Health Privacy Principles (HPP), contained within the PDPA and the HRA respectively.

General Principles

In accordance with the principles of the PDPA and the HRA, all Personal Information and Health Information collected and held by GOTAFE will only be used for the primary purpose for which it was originally collected, or a lawful secondary purpose. The circumstances in which GOTAFE can lawfully collect Sensitive Information are more limited.

Personal Information and Health Information may be provided to government departments and agencies to enable GOTAFE to meet its statutory obligations (for example, superannuation and taxation obligations) or as otherwise required by law.

In accordance with the principles contained in the PDPA and the HRA, GOTAFE will adhere to the following when dealing with Personal Information and Health Information:

a) Collection of information

GOTAFE will only collect Personal Information or Health Information that is relevant to, and necessary for, one or more of its functions or activities. The collection of such information will be done by lawful and fair means and not in an unreasonably intrusive way.

In respect of employees, collection of a range of Personal Information and occasionally, Health Information, is required for the purposes of employment, including providing a safe workplace.

Similarly, in respect of students and clients, GOTAFE must collect a range of Personal Information and Health Information in order to provide its services safely and efficiently.

GOTAFE will endeavour, where reasonable and practicable to do so, to only collect Personal Information and Health Information from the individual that the Personal Information and Health Information relates to. If necessary, GOTAFE will collect Personal Information and Health Information about an individual from a third party but will take reasonable steps to ensure the individual is aware of the above listed matters, so long as it does not pose a serious threat to the life or health of any individual, or is not reasonably practical.

Personal Information and Health Information that is collected will be:

- i. held securely to prevent any security breaches; and
- ii. processed in order to meet the individual needs of each person.

The collection and use of information for the purposes of USI's, is to be managed in accordance with the Student Identifiers Act 2014 (Cth)(**SI Act**). Importantly, the SI Act states that GOTAFE may need to collect Personal Information in order to apply for a USI on behalf of students. If it does collect Personal Information for this purpose, the information must be destroyed as soon as the application for a USI has been made.

b) Use and Disclosure

GOTAFE will not disclose any Personal Information or Health Information about an individual to a third party for any reason, other than for the primary purpose that it was collected, unless for a lawful secondary purpose. For example, where:

- i. the purpose for the disclosure is related (or directly related, in relation to Sensitive Information or Health Information) to the primary purpose for its collection and the individual would reasonably expect GOTAFE to use or disclose the information for this secondary purpose;
- ii. the individual has provided consent to the disclosure or use of the information;
- iii. the use or disclosure is necessary for research or the compilation of analysis statistics (where the individual will not be identified) and it is impractical for GOTAFE to seek consent;
- iv. it is reasonably believed that the use or disclosure of the information is necessary to lessen or prevent a serious threat to an individual's life, health, safety or welfare or a serious threat to public health, public safety or public welfare;
- v. GOTAFE has reason to suspect that unlawful activity has been, is being or may be engaged in, and uses or discloses the information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities;
- vi. the use or disclosure is required or authorised by or under law, including both legislation such as the *Occupational Health and Safety Act 2004* or common law, for example for reasons of procedural fairness;
- vii. the use or disclosure is to a law enforcement agency for a prescribed purpose; or
- viii. Australian Security Intelligence Organisation (ASIO) or the Australian

Secret Intelligence Service (ASIS) ask that the information be disclosed for a prescribed purpose.

c) Data Quality

GOTAFE will take all reasonable steps to ensure the Personal Information and Health Information that is collected is complete, accurate and current.

If an individual wishes to access or update their Personal Information or Health Information, GOTAFE will provide reasonable assistance with this.

d) Data Security

GOTAFE will take all reasonable steps to ensure that information is protected from misuse and loss and unauthorised access, modification or disclosure.

All information not required will be destroyed in accordance with the applicable laws.

e) Openness

GOTAFE makes this Privacy Policy available on its website.

On request by a person to the Privacy Officer, GOTAFE will take reasonable steps to let people know what sort of Personal and Health Information it holds, for what purposes, and how it collects, holds, uses and discloses that information.

f) Access and Correction

Access

In most circumstances, GOTAFE will grant individuals access to their Personal Information or Health Information, upon request. If appropriate, the requested information will be provided to the person who made the request, within **45 days** of GOTAFE receiving the request.

GOTAFE will only refuse access to an individual's Personal Information or Health Information for a prescribed reason under the PDPA and the HRA. Those reasons are as follows:

- i. Providing access would pose a serious threat to the life or health of any individual.
- ii. Providing access would have an unreasonable impact on the privacy of other individuals.
- iii. The request for access is frivolous or vexatious.
- iv. The requested information relates to existing legal proceedings between the organisation and the individual, and the information would not be accessible by the process of discovery or subpoena in those proceedings.
- v. Providing access would reveal the intentions of the organisation in relation to negotiations with the individual in such a way as to prejudice those negotiations.
- vi. Providing access would be unlawful.
- vii. Denying access is required or authorised by or under law.
- viii. Providing access would be likely to prejudice an investigation of possible unlawful activity.
- ix. Providing access would be likely to prejudice the prevention, detection,

investigation, prosecution or punishment of criminal offences or breaches of a law imposing a penalty or sanction or relating to the proceeds of crime.

- x. The protection of public revenue.
- xi. The prevention, detection, investigation or remedying of seriously improper conduct.
- xii. The preparation for, or conduct of, proceedings before any court or tribunal, or implementation of its orders.
- xiii. ASIO, ASIS or a law enforcement agency performing a lawful security function asks the organisation not to provide access to the information on the basis that providing access would be likely to cause damage to the security of Australia.

Further, where providing access would reveal evaluative information generated within GOTAFE in connection with a commercially sensitive decision-making process, GOTAFE may give the individual an explanation for the commercially sensitive decision rather than the direct access to the information.

If access to information is refused, the individual will be provided with the reasons, in writing, as to why the Personal Information or Health Information will not be provided.

It may also be possible for individuals to seek access to information via freedom of information – see GOTAFE’s Freedom of Information Procedure.

Correction

If an individual would like to have their Personal Information or Health Information amended because it is not accurate or complete, this will be done within **5 days** of receiving a written request to update the information (as long as GOTAFE agrees that the information is inaccurate or that the information is not up to date).

GOTAFE will provide the reasons in writing if it does not agree to change an individual’s information. A statement setting out the individual’s position may also be kept with the information, on request.

It is important for GOTAFE to have accurate and complete records in relation to its employees, students and clients. GOTAFE may contact individuals to confirm the accuracy of their Personal and Health Information, as required.

g) Unique identifiers

GOTAFE assigns Unique Identifiers to employees and students to be able to carry out its function efficiently.

All students undertaking study in a nationally recognised training course will need to have a Unique Student Identifier (USI) as required by the Australian Government. More information is available from the [Australian Government USI website](#).

GOTAFE will not adopt a Unique Identifier that has been assigned by another organisation. However, GOTAFE may collect and store Unique Identifiers used by other organisations. These may be included in reports to relevant Commonwealth and Victorian departments and agencies.

h) Anonymity

GOTAFE will allow individuals the option of not identifying themselves in their

dealings with GOTAFE, wherever it is lawful and practicable.

i) Transborder data flows

GOTAFE may transfer Personal Information or Health Information to a third party who is outside of Victoria only if:

- i. GOTAFE reasonably believes that the recipient of the information is subject to a law, binding scheme or contract which effectively upholds principles for fair handling of the information that are substantially similar to GOTAFE's legal obligations;
- ii. the individual consents to the transfer;
- iii. the transfer is necessary for the performance of a contract between the individual and GOTAFE, or for the implementation of pre-contractual measures taken in response to the individual's request;
- iv. the transfer is necessary for the conclusion or performance of a contract which is concluded in the interest of the individual between the organisation and a third party;
- v. all of the following apply:
 - a. the transfer is for the benefit of the individual;
 - b. it is impracticable to obtain the consent of the individual to that transfer;
 - c. if it were practicable to obtain that consent, the individual would be likely to give it; or

GOTAFE has taken reasonable steps to ensure that the information which it has transferred will not be held, used or disclosed by the recipient of the information inconsistently with the IPPs.

j) Sensitive Information

GOTAFE will not collect Sensitive Information about an individual unless:

- i. The individual has consented; or
- ii. The collection is required or authorised under law; or
- iii. the collection is necessary to prevent or lessen a serious threat to the life or health of any individual, where the individual whom the information concerns
 - a. is physically or legally incapable of giving consent to the collection; or
 - b. physically cannot communicate consent to the collection; or
- iv. the collection is necessary for the establishment, exercise or defence of a legal or equitable claim.

GOTAFE may collect sensitive information about an individual if:

- i. the collection
 - a. is necessary for research, or the compilation or analysis of statistics, relevant to government funded targeted welfare or educational services; or

- b. is of information relating to an individual's racial or ethnic origin and is collected for the purpose of providing government funded targeted welfare or educational services; and
- ii. (b) there is no reasonably practicable alternative to collecting the information for that purpose; and
- iii. it is impracticable for the organisation to seek the individual's consent to the collection.

DEFINITIONS

<i>Consent</i>	means express consent or implied consent
<i>Health Information</i>	<p>means information or an opinion about:</p> <ul style="list-style-type: none"> a) an individual's physical, mental or psychological health (at any time); b) an individual's disability (at any time); c) an individual's expressed wishes about the future provision of health services to them; or d) a health service provided, or to be provided, to an individual, that is also personal information; or e) other personal information collected to provide, or in providing, a health service; f) other personal information about an individual collected in connection with the donation, or intended donation, by the individual of his or her body parts, organs or body substances; or g) other personal information that is genetic information about an individual in a form which is or could be predictive of the health (at any time) of the individual or of any of his or her descendants, <p>but does not include health information, or a class of health information or health information contained in a class of documents, that is prescribed as exempt health information for the purposes of the HRA generally or for the purposes of specified provisions of the HRA.</p>
<i>Personal Information</i>	<p>means information or an opinion (including information or an opinion forming part of a database), that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, but does not include information of a kind to which the HRA applies or information regarding a person who has been dead for more than 30 years.</p> <p>A reference to Personal Information in this policy includes Sensitive Information, unless otherwise stated.</p>
<i>Privacy Officer</i>	means the Executive Director Strategy and Governance or delegate.
<i>Sensitive Information</i>	<p>means information or an opinion about an individual's:</p> <ul style="list-style-type: none"> a) racial or ethnic origin; b) political opinions; c) membership of a political association; d) religious beliefs or affiliations;

- e) philosophical beliefs;
- f) membership of a professional or trade association;
- g) membership of a trade union;
- h) sexual preferences or practices; or
- i) criminal record

that is also personal information.

Unique Identifiers means an identifier (usually a number) assigned by an organisation to an individual uniquely to identify that individual for the purposes of the operation of the organisation but does not include an identifier that consists only of the individual's name and does not include an identifier within the meaning of the HRA

Unique Student Identifier (USI) means the reference number given to students to access their online USI account. The USI allows an individual's USI account to be linked to the National Vocational Education and Training (VET) Data Collection, allowing an individual to see all of their training records, results, certificates and statements of attainment.

ROLES AND RESPONSIBILITIES

GOTAFE employees, contractors and consultants are at all times required to comply with this policy when handling Personal Information, Sensitive Information and/or Health Information collected by or on behalf of GOTAFE in relation to GOTAFE's employees, clients and students (whether past, present or prospective) and to treat all privacy matters in accordance with the values underpinning the Code of Conduct for Victorian Public Sector Employees.

If an individual holds concerns relating to the privacy of their Personal Information, Sensitive Information or Health Information held by GOTAFE, they may contact GOTAFE's Privacy Officer to discuss the matter further.

Students are notified of GOTAFE's Privacy Policy upon enrolment to ensure they give informed consent to the collection, use, storage, disclosure of, and access to, their information.

INFORMATION PRIVACY ENQUIRIES

All enquiries or advice on privacy matters including requests to update Personal Information must be in writing and sent to:

- GOTAFE Privacy Officer, 152-200 Fryers Street, Shepparton VIC 3630 or
- privacy@gotafe.vic.edu.au

POLICY BREACHES

In the first instance, alleged breaches of this policy should be referred to the area where the information was initially lodged by you.

If a satisfactory resolution cannot be reached, the alleged breach should be submitted in writing through GOTAFE's Compliments, Complaints and Suggestions process. All matters will be managed in accordance with GOTAFE's complaint and appeals process.

OTHER MATTERS

This policy should be considered in conjunction with GOTAFE's Freedom of Information Request Procedure, which deals with access to information held by GOTAFE.

Additionally, the *Public Interest Disclosure Act 2012 (Vic)* provides protection for individuals who disclose improper or corrupt conduct by public officers. Please refer to GOTAFE's Public Interest Disclosure Policy for further information.

DOCUMENTATION AND REGULATION

Other material related to the information privacy function at GOTAFE include, but are not limited to:

- *Health Records Act 2001*;
- *Privacy and Data Protection Act 2014*;
- *Public Interest Disclosure Act 2012 (Vic)*;
- Code of Conduct for Victorian Public Sector Employees;
- Complaints, Feedback and Issue Resolution Policy;
- Complaints, Feedback and Issue Resolution Procedure;
- Freedom of Information Request Procedure;
- GOTAFE Employee Code of Conduct;
- Public Interest Disclosure Policy; and
- Public Interest Disclosure Procedure.