



Trustees of the Christian Brothers
(Queensland)
St Francis Xavier Province

Province Policy No 7:

Privacy Policy

MARCH 2004

POLICY STATEMENT

Each person working in the St Francis Xavier Province must comply with the Province Privacy Policy in its adoption of the 10 National Privacy Principles established by the Privacy Amendment (Private Sector) Act 2000 relating to the collection, use, disclosure, security, access and disposal of personal information by private sector organisations.

- Information sought by our Schools, Ministries and Initiatives will be collected and thereafter handled in a manner consistent with the primary purpose (see 6.2) behind the request for information.**
- Prior to any information being obtained the individual must be advised what information needs to be collected, the reason or purpose for which it is being collected, to whom the information will be disclosed and the consequences which will flow from non-disclosure. This will be undertaken by way of a Privacy Notice (Annexure A).**

INTRODUCTION

The *Privacy Amendment (Private Sector) Act 2000* Commonwealth (referred to now as The Act) came into force on 21st December 2001. It applies to each person working within the St Francis Xavier Province and its associated corporations.

St Francis Xavier Province acknowledges the obligations imposed by this Act and supports respect of the privacy rights of all those involved in the Province.

This policy contains information about the application of The Act to the St Francis Xavier Province.

1. RATIONALE/PURPOSE

The purpose of this Province Privacy Policy is to:

- identify the implications of the 10 National Privacy Principles in The Act upon the present and future collection, use, storage, updating, disclosure and disposal of personal information;
- ensure correspondence, newsletters, magazines and fundraising/marketing strategies comply with the 10 National Privacy Principles (NPPs); and
- facilitate day-to-day administration.

2. GUIDING PRINCIPLES

The 10 National Privacy Principles underpin this Policy and are briefly summarised as follows:

1. *Collection* - relates to the collection of personal information by an organisation. An organisation must only collect personal information where it is relevant to one or more of its primary functions or activities and the way it is collected must be lawful and fair. If possible, information should be collected directly from the individual to whom it relates.
2. *Use and Disclosure* - governs how an organisation may use and disclose personal information in its possession. There are restrictions on the way in which an organisation may use or disclose personal information where that use or disclosure is for a purpose other than the primary purpose for which it was collected.
3. *Data Quality* - relates to the quality of the data held by an organisation. The organisation must take reasonable steps to ensure data is accurate, complete and up to date.
4. *Data Security* - requires an organisation to take reasonable steps to ensure that the personal information it holds is secure, and to destroy and de-identify personal information which is no longer required.
5. *Openness* - requires an organisation to be open about what personal information it holds and its Policy on the management of personal information.
6. *Access and Correction* - permits access to and correction of personal information held by an organisation by the individual to whom the personal information relates.
7. *Identifiers* - prohibits the use of identifiers assigned by a Commonwealth agency such as Medicare and tax file numbers.
8. *Anonymity* - states that individuals must have the option of not identifying themselves when entering into transactions with organisations, if it is lawful and practicable to remain anonymous.
9. *Transborder Data Flows* - regulates the transfer of personal information, held by an organisation in Australia about an individual, to someone in a foreign country.
10. *Sensitive Information* - limits the ability of an organisation to collect sensitive information (i.e. information about an individual's racial or ethnic origin, political opinions, religious beliefs and so on).

3. OBLIGATIONS

- Privacy Act 2000
- Privacy Amendment (Private Sector) Act 2000
- Criminal Law
- Anti-discrimination Act 1991 (Old)
- Discrimination Law Amendment Act 2002
- Commission for Children and Young People Act 2000
- Other Province Policies, particularly Enrolment and Employment

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5. DEFINITIONS

(a) *St Francis Xavier Province*

St Francis Xavier Province refers to all schools, ministries, initiatives, Brothers communities and associated corporations.

(b) *Each person working within the St Francis Xavier Province*

This refers to all staff, religious, ministry workers and volunteers (both paid and unpaid) involved in schools, non-school ministries, associated corporations and other initiatives of St Francis Xavier Province and includes visitors, contractors and tradespersons.

(c) *associated corporations*

This refers to a corporation where the Trustees appoint the Board of management, or have the power to appoint the Board of Management. It also refers to any subsidiary corporation of such a corporation.

(d) *Participants* refers to all young people, clients and those who receive a service from the St Francis Xavier Province ministries and its associated corporations.

(e) *Students* refers to all persons enrolled in the St Francis Xavier Province schools and schools operated by its associated corporations.

(f) *Personal Information*

Personal information collected for the primary purpose means: information or an opinion, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent or can easily be associated from the information or opinion.

By way of illustration:

- i. For **students/participants** this could include name, address, phone number, date of birth (and age), birth certificate, conduct reports, next of kin details, emergency contact numbers, names of doctors, school reports, assessments, referrals (e.g. government welfare agencies/departments), correspondence with parents, photos, current/previous school, health fund details and Medicare number.
- ii. For **parents** this could include name, address, email address, phone number, date of birth, vehicle registration details, occupation, marital status/problems, custody details, doctor's name and contact information, Medicare number, other children's details, donation history, maiden name of ex-pupils, alumni year, whether alumni had further education, professional experience and personal news.
- iii. For **job applicants and each person working within St Francis Xavier Province** this could include name, company name and ABN, phone number, email address, TFN, date of birth and age, contact details of next of kin, emergency contact numbers, including doctor, residency status/work visa status, qualifications, education, academic transcript, work permit, passport, details of previous salary, salary being sought and other salary details, details of referees, bank account number, superannuation details, marital status, letters of appointment/complaint/warning/resignation, record of interview, leave applications, discipline issues, professional development appraisals, performance review, photograph, applications for promotions, references, commencement date, employment agency details and former employers.

Personal information does not include employee records.

(g) *A Record is* a document, database or photograph containing personal information.

(h) *Sensitive Information*

Collection of sensitive information is prohibited, except where that information is exempt sensitive information (see below).

Sensitive information is personal information relating to an individual detailing:

- racial or ethnic origin;
- political opinions;
- membership of a political association;
- philosophical beliefs;
- membership of a professional trade association;
- membership of a trade union;
- sexual preference or practices;

Collection of exempt sensitive information is permitted.

Exempt sensitive information is personal information relating to an individual detailing

- racial or ethnic origin;
- religious beliefs or affiliations;
- health information about an individual.

By way of illustration:-

- i. For **students/participants** this could include religion, birth certificate, language spoken at home, religious records, whether Indigenous, nationality, country of birth, Sacrament/Parish (current Parish, name of referring Priest, date and place of Baptism, Confirmation, Eucharist and Reconciliation) and Baptism Certificate.

- ii. For **parents** this could include religion, country of birth, nationality, family configuration and Court Orders.
- iii. For **job applicants and each person working within St Francis Xavier Province** this could include place of birth, religion, religious education, criminal record check, relevant child protection law information, membership of professional associations, trade union membership, country of birth and nationality.

(i) *Health Information*

Health Information is sensitive information about an individual relating to that individual's health.

- i. By way of illustration:-For **students/participants** this could include medical background, immunisation records, medical records, medical treatments, accident reports, absentee notes, medical certificates, height and weight, nutrition and dietary requirements, assessment results for vision, hearing and speech, reports of physical disabilities, illnesses, operations, paediatric, medical, psychological, psychiatric and psychometric information, developmental history, history of genetic and familial disorders (including learning disabilities), diagnosis of disorders, learning detail (recipient of special procedures, assessment for speech, occupational, hearing, sight, ADHD, Educational Cognitive (IQ)).
- ii. For **job applicants and each person working within the St Francis Xavier Province** this could include medical condition affecting ability to perform work, health information, compensation claims and doctor's certificates.

(j) *Employee Records*

Employee record, in relation to an employee, means a record of information relating to the employment of the employee. An example of information relating to the employment of the employee is health information about the employee and information about all or any of the following.

- The engagement, training, disciplining or registration of the employee.
- The termination of the employment of the employee.
- The terms and conditions of employment of the employee.
- The employee's personal and emergency contact details.
- The employee's performance or conduct.
- The employee's hours of employment.
- The employee's salary or wages.
- The employee's membership of a professional or trade association.
- The employee's recreation, long service, sick, personal, maternity, paternity or other leave.
- The employee's taxation, banking or superannuation affairs.

6. PROCEDURES

6.1 RESPONSIBILITY

6.1.1 Each Person working within the St Francis Xavier Province will be expected to:

- a) comply with the Policy;
- b) take part in in-servicing; and
- c) support the principles of privacy and the need for confidentiality.

6.1.2 The *Province Leadership Team* have responsibility for:

- a) approval of the Policy for all School/Ministries/Associated Corporations/Initiatives.

6.1.3 An associated corporation:

- a) has a contractual obligation to ensure that this policy is complied with by the Associated Corporation.
- b) has a responsibility to ensure compliance by the Associated Corporation with this policy.

6.1.4 Province Policy Coordinating Group has delegated responsibility for:

- a) dissemination of the Policy to all School/Ministries/Initiatives;
- c) overseeing the monitoring for compliance with the Policy in the Province; and
- d) reviewing of the Policy.

6.1.5 The *Principal/Ministry Leader/CEO* has delegated responsibility for:

- a) acquiring a full understanding of relevant provisions of The Act including NPPs;
- b) applying the Policy to all appointments and enrolments;
- c) handling requests for access to information in accordance with Privacy Principles and this Policy;
- d) keeping a Register to document requests for information made to schools, ministries; and
- e) handling complaints in relation to a breach of this Policy and/or Privacy Principles.

6.1.6 Province Secretary has delegated responsibility for:

- a) acquiring a full understanding of relevant provisions of The Act including NPPs;
- b) handling requests for access to information in accordance with Privacy Principles and this Policy; and
- c) keeping a Register to document requests for information regarding Brothers.

6.1.7 Executive Director, Edmund Rice Education/CEO has delegated responsibility for:

- a) application of the Policy in all ERED/associated corporation appointments;
- b) monitoring compliance with the Policy in Schools/associated corporations; and
- c) providing advice/in-servicing on the Policy to key personnel responsible for the Policy.

6.1.8 College Boards have delegated responsibility for:

- a) ensuring systems are in place for compliance with the requirements of this Policy.

6.2 Collecting Information

6.2.1 Primary Purpose of collecting

Personal information collected will be collected for the primary purpose, set out below and anything incidental to that purpose.

- (a) *Students/Participants and Parents of Schools/Ministries/Associated Corporations/Initiatives*

In relation to personal information of students/participants and parents, the primary purpose of collection is for the function and activities of the Edmund Rice Ministries. This includes satisfying both the needs of parents and the needs of the students/participants throughout the whole period the person is involved with the Province.

(b) *Job Applicants, Volunteers and Contractors*

The primary purpose for which this personal information is used is:

- selection of personnel who can fulfil their professional duties within the Edmund Rice ethos and in accordance with Province Policy and the law and in addition for administering the individual's employment or contract, as the case may be;
- insurance purposes; and
- to satisfy other legal obligations, for example, in relation to child protection legislation.

6.2.2 Type of information collected

The type of information collected and held includes, but is not limited to, personal information, sensitive information and health information about:

- (a) Students/participants and parents and/or guardians before, during and after the course of enrolment at the school/ministry (in accordance with the Application and Enrolment Policy);
- (b) Job applicants, volunteers and contractors.

6.2.3 Method of Collection

A Privacy Notice must be provided to the person (eg prospective employees, volunteers, contractors or students/participants) at the time of collection. This notice must address the following:

- identity of the organisation seeking the information;
- access arrangements;
- purpose of collection;
- usual recipient of information;
- any legal requirements; and
- consequence of failure to provide information in request.

Personal information will generally be collected by way of forms filled out by applicants/parents/students/participants. Other methods of collecting may include face-to-face meetings, interviews and telephone calls.

In some circumstances personal information about an individual may be provided from a third party, for example a report provided by a medical professional or referee.

6.2.4 Exception in Relation to Employee Records

Schools/Ministries/Initiatives/Associated Corporations are not bound by the NPPs, and this Privacy Policy does not apply, in relation to employee records.

6.3 USING INFORMATION

Personal information must only be used and disclosed for the Primary purpose for which it was collected eg. information disclosed on a student/participant enrolment form must only be used for the purpose of assisting in educating and caring for that child.

6.3.1 Sharing Information Across School/Ministry/Initiative

Each school/ministry/initiative/associated corporation, being legally related to the Christian Brothers, is authorised to share personal information already collected with other entities conducted by the Christian Brothers. This allows for the transfer of personal information between them, for example, when a student transfers from one Edmund Rice School to another Edmund Rice School/Ministry. Such transfer of information is incidental to the primary purpose for collection.

6.3.2 Disclosure of Personal Information

- (a) At the time of collection, the organisation should tell the individual to whom it usually discloses the information. Where appropriate a school/ministry/initiative/associated corporation may disclose Personal Information held about an individual to:
- another school/ministry/initiative/associated corporation;
 - government departments;
 - the local parish;
 - medical practitioners;
 - people providing services, including specialist visiting teachers and sports coaches;
 - recipients of Christian Brothers publications, like newsletters and magazines;
 - parents; and
 - anyone authorised (by the person to whom the information relates) to receive information.
- (b) An individual's consent will be obtained before disclosing personal information, including fundraising and marketing purposes.
- (c) Disclosure of personal information regarding any student/participant/parents, past or present, will not be made without the consent of the person to whom the personal information relates or the consent of that person's parent or guardian.
- (d) Disclosure of personal information regarding any person, past or present, working or having worked with the St Francis Xavier Province will not be made to any third party without the consent of the person to whom the personal information relates.
- (e) Nothing in this paragraph 6.3.2 of the policy or the policy generally restricts the proper compliance by the Province with a summons, subpoena, search warrant or other legal process requiring the production of documents or disclosure of information.
- (f) Requests for personal information regarding present or past Brothers must be directed to the Province Secretary.
- (g) The Province's commitment to the safety and well-being of each person working and involved in the Province may require the disclosure of personal information (for example where child protection legislation requires its disclosure).

6.3.3 Sending Information Overseas

No personal information about an individual will be sent outside Australia without first:

- obtaining the consent of the individual; and

- ascertaining that the country to which the information is to be sent has laws similar to the National Privacy Principles.

6.4 MANAGEMENT AND SECURITY OF PERSONAL INFORMATION

The employer and staff are required to respect the confidentiality and privacy of students, participants, parents, contractors and volunteers.

Each School/Ministry/Initiative/Associated Corporation will have in place procedures to protect the personal information held from misuse, loss, unauthorised access, modification or disclosure by use of various methods, including locked storage of paper records and pass word access rights to computerised records.

6.5 UPDATING PERSONAL INFORMATION

Procedures must be in place to ensure that the personal information held is accurate, complete and up-to-date. A person may seek to update his/her personal information held by a school/ministry/initiative, at any time.

The NPPs, as adopted by Edmund Rice Schools/Ministries/Initiatives/Associated Corporations, require personal information to be stored only as long as necessary.

6.6 PERSONAL ACCESS TO PERSONAL INFORMATION

Under the Act, an individual has the right to obtain access to any personal information held about him/her and to advise the organisation of any perceived inaccuracy. There are some **exceptions** to this right set out in the Act. Children will generally have access to their personal information through their parents.

A fee may be charged to cover the time taken in locating, retrieving, reviewing and copying any material requested.

There will be occasions when access is denied. Such occasions would include where release of the information would have an unreasonable impact on the privacy of others, or where the release may result in a breach of the duty of care. Reasons will be provided for the refusal of access.

6.6.1 Student/participants access to personal information

A school/ministry/initiative/associated corporation may, at its discretion, on the request of a young person (student/participant), grant that person access to information held about them, or allow that person to give or withhold consent to the use of their personal information, independently of their parents. This would normally be done only when the student/participant involved had reached 18 years of age, but could be done in other circumstances when the maturity of that person and/or personal circumstances so warranted.

6.6.2 Responding to requests to schools and ministries

Applicants wishing to access any of their personal information should make the initial request in writing to the Principal's secretary/Ministry Leader/CEO's delegate. Applicants will need to:

- a) verify identification; and
- b) specify what information is required.

6.7 TRAINING

Principals/Ministry Leaders/Directors/CEOs will make staff aware of this Policy on an annual basis.

Secretaries will receive particular training regarding this Policy and the specific protocols for each workplace.

6.8 COMPLIANCE

An internal audit schedule must be completed annually for each school, ministry and associated corporation.

Every variation made in implementing the Policy must be recorded on the Record of Variation Forms, and these records available for the internal and external audit.

An external audit is carried out at least every 3 years, or as required.

6.9 REVIEW

This policy will be reviewed at least every three years.

6.10 POLICY BREACH

A person who considers that any action breaches this Privacy Policy or the National Privacy Principles, or otherwise does not respect his/her privacy, can make a complaint. The complaint needs to be in writing and needs to set out in detail the reasons for the complaint. Complaints are to be made to the person responsible for the Ministry, Principal/Ministry Leader/Director/CEO.

If a person is not satisfied with the response to the complaint, he/she can contact the Commonwealth Privacy Commissioner's hotline on 1300 363 992.

ANNEXURE A PRIVACY NOTICE

Please use on all documents where information is sought, (as applicable).

1. Standard Collection Notice Clauses (Enrolment of Students/Participants)

- a) Full contact details of School/Ministry/Associated Corporation e.g.
Name of School/Ministry/Associated Corporation
Address
Telephone no.
Email:
- b) The primary purpose of the collection of information is for use in educating and/or caring for your son/daughter and in assessing the most appropriate way to provide an Edmund Rice education/ministry/service for your son/daughter.
- c) You are entitled to gain access to any personal or sensitive information given.
- d) The information is kept for a period which is necessary for its primary purpose.
- e) The information may be disclosed to others only for the purposes of Edmund Rice Education/MinistryService and to those significantly involved with the student/participant.
- f) Failure to disclose the requested information will affect initial/ongoing enrolment.

2. Alumni Collection Notice

- (i) Full contact details of School/Ministry/Associated Corporation e.g.
Name of School/Ministry/Associated Corporation
Address
Telephone no.
Email:
- ii) The ex student's association may collect personal information about you from time to time. The primary purpose of collecting this information is to enable us to inform you about our activities and the activities of the school and to keep ex student members informed about other members.
- iii) The information received from you may be used to make an appeal to you. It may also be used by the school to assist in its fundraising activities. If you do not agree to this, please advise us now.
- iv) The ex student's association may publish details about you in our (Name of publication) and our/the School's/Associated Corporation's website. If you do not agree to this you must advise us now.
- v) You may seek access to personal information collected about you by written contact with the school/ministry/associated corporation at the above address.
- vi) If you provide personal information to us about other people, we encourage you to inform them of the above matters.

3. Job Applicant Collection Notice

- a) Full contact details of Employer e.g.

Name of School/Ministry/Associated Corporation

Address

Telephone no.

Email:

- b) This information will be used for the purpose of selecting a candidate to fulfil the role within this Edmund Rice School/Ministry/Associated Corporation.
- c) Information will be kept for the duration of the selection process and will be kept in a secure place until the selection process is completed. Original copies of CVs will be returned to unsuccessful applicants after completion date and copies will be destroyed. Information relating to the successful applicant will be retained by the employer.
- d) Candidates may seek access to information gathered about them for the purposes of selection.
- e) The Information will be disclosed only to those who play a role in the selection process.
- f) Failure to disclose the requested information will affect the efficiency of the selection process.

4. Contractor/Volunteer Collection Notice (Required by Law)

- g) Full contact details of School/Ministry/Associated Corporation e.g.

Name of School/Ministry/Associated Corporation

Address

Telephone no.

Email:

- h) Personal information is collected in order to assess your application.
- i) You agree that we may store this information for [insert amount of time].
- j) Access to this information may be available to you if you request it in writing.
- k) We will not disclose this information to a third party without your consent.
- l) Failure to disclose the requested information will affect initial/ongoing engagement.