



**Australian  
Privacy  
Foundation**

<http://www.privacy.org.au>

[Secretary@privacy.org.au](mailto:Secretary@privacy.org.au)

<http://www.privacy.org.au/About/Contacts.html>

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Mr Glenn Withers  
Chief Executive Officer  
Universities Australia  
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Dear Mr Withers

**Re: The Privacy Policies of Australian Universities**

The Australian Privacy Foundation (APF) is the country's leading privacy advocacy organisation. A brief backgrounder is attached.

The APF is very concerned about a number of aspects of Universities' operations, which have the potential to have a serious negative impact on the privacy of staff and students. Because Universities Australia is the industry peak body representing Australia's 39 universities, the APF is writing to raise its concerns with you. I attach a one-page outline.

Given the special nature of the relationships that universities have with both staff and students, it could reasonably be anticipated that particular care would be taken in ensuring appropriate balances among the various interests. Further, because the relationships are common across institutions, we imagine that Universities Australia takes a leadership role on this issue, with the aim of assisting Australian universities to ensure that their privacy practices are exemplary.

We would appreciate your advice on the position of Universities Australia on these matters, and on appropriate channels that we should use to bring these concerns to the attention of all University Vice-Chancellors and their staff.

Thank you for your consideration.

Yours sincerely

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## The Privacy Policies and Practices of Australian Universities

Privacy is a fundamental human right established through international law. In addition, privacy is a crucial component of academic freedom. The APF is concerned about a number of current practices in Australian universities. The following provides an outline of key aspects of those concerns.

### 1. IT Usage Policies

IT Usage policies generally permit universities to gain access to the content of emails sent or received by staff members. However, some policies purport to provide universities with this right, at will and for any reason. One that we have seen even states that staff members should hold no expectation of privacy at all when using university IT resources.

This approach is in distinct contrast to the position with other communications media, and other means of observing staff behaviour. The law constrains the actions of employers in relation to surveillance and interception in almost all of their forms, including sound, still-image, video and telephonic communications and behaviour. Parliaments and the courts have established balances between the interests of employers and employees. It is inappropriate, and counterproductive, for employers to take advantage of the interlude prior to formal regulation of Internet usage to establish draconian provisions in relation to email, VOIP and other Internet-based communications, and staff behaviour in Internet contexts such as the Web and P2P networks.

A recent, practical example demonstrates the negative implications of privacy-hostile IT Usage policies. The Department of Innovation, Industry, Science and Research (DIISR) has commenced a Sustainable Research Excellence Survey which requires academic staff members to provide detailed personal information. Staff members taking part in the survey are assured that their data will be “collected and maintained in accordance with the provisions of the *Privacy Act 1988 (Cth)*”. However, when reading that Act in conjunction with the universities' IT Usage policies, the data might be claimed to be available for additional purposes beyond the primary purpose. The broad nature of circumstances under which staff emails can be accessed may cause a legitimate reluctance on the part of university staff to participate in what could otherwise be a useful study.

The APF's concerns are of course not limited to academic staff. A university is a complex community, and many participants have privacy interests that need to be protected. Examples include staff who provide employment issues, union discussions, counselling services, communications relating to mental health, and information that could compromise people's safety.

Finally, university students also have legitimate expectations of freedoms – certainly not unlimited freedoms, but equally certainly the scope to experiment and to challenge conventions, including the conventions to which their teachers and their administrators subscribe.

### 2. The Outsourcing of Services

A trend is evident among Australian universities towards cloud computing solutions. These embody very considerable security and privacy risks. It appears that universities are adopting these approaches without first performing a sufficient privacy analysis in the form of a Privacy Impact Assessment (PIA). The conduct of a PIA ensures that all affected parties are informed in advance of the university's intentions, that all issues are identified, and that all parties appreciate one another's perspectives on the matter.

University staff, and postgraduate and undergraduate students are understandably very concerned about these developments. So too are people who correspond with academics and students, because their emails and the attachments that they exchange with academics and students may reach people other than the intended recipients, and may be stored on devices distant from them, outside their direct control, and quite possibly in another country.

We are very concerned that personal information of staff and students is at risk of floating out of control. Further, in light of the restrictions placed on such transfers under Australian privacy law, we question the lawfulness of this approach.

## Australian Privacy Foundation

### Background Information

The Australian Privacy Foundation (APF) is the primary national association dedicated to protecting the privacy rights of Australians. The Foundation aims to focus public attention on emerging issues that pose a threat to the freedom and privacy of Australians. The Foundation has led the fight to defend the right of individuals to control their personal information and to be free of excessive intrusions.

The APF's primary activity is analysis of the privacy impact of systems and proposals for new systems. It makes frequent submissions to parliamentary committees and government agencies. It publishes information on privacy laws and privacy issues. It provides continual background briefings to the media on privacy-related matters.

Where possible, the APF cooperates with and supports privacy oversight agencies, but it is entirely independent of the agencies that administer privacy legislation, and regrettably often finds it necessary to be critical of their performance.

When necessary, the APF conducts campaigns for or against specific proposals. It works with civil liberties councils, consumer organisations, professional associations and other community groups as appropriate to the circumstances. The Privacy Foundation is also an active participant in Privacy International, the world-wide privacy protection network.

The APF's Board comprises professionals who bring to their work deep experience in privacy, information technology and the law.

The Board is supported by a Patron (Sir Zelman Cowen), and an Advisory Panel of eminent citizens, including former judges, former Ministers of the Crown, and a former Prime Minister.

The following pages provide access to information about the APF:

- Policies <http://www.privacy.org.au/Papers/>
- Resources <http://www.privacy.org.au/Resources/>
- Media <http://www.privacy.org.au/Media/>
- Current Board Members <http://www.privacy.org.au/About/Contacts.html>
- Patron and Advisory Panel <http://www.privacy.org.au/About/AdvisoryPanel.html>

The following pages provide outlines of several campaigns the APF has conducted:

- The Australia Card (1985-87)  
<http://www.privacy.org.au/About/Formation.html>
- Credit Reporting (1988-90)  
<http://www.privacy.org.au/Campaigns/CreditRpting/>
- The Access Card (2006-07)  
[http://www.privacy.org.au/Campaigns/ID\\_cards/HSAC.html](http://www.privacy.org.au/Campaigns/ID_cards/HSAC.html)
- The Media (2007-)  
<http://www.privacy.org.au/Campaigns/Media/>