

PURPOSE

To ensure Fresh Start Education maintains the privacy of personal information provided to Fresh Start Education from Staff and Students'. As a Registered Training Organisation (RTO), we use your personal information to enable Fresh Start Education to deliver *Vocational Education and Training (VET)* courses to you, and otherwise, as needed to comply with our obligations as an RTO.

SCOPE

This document describes Fresh Start Education's *Privacy Policy*. The *Privacy Act 1988 Commonwealth* requires companies to comply with the *Australian Privacy Principles*. Fresh Start Education is committed to the Australian Privacy Legislation in the way it collects, uses, secures and discloses personal information.

POLICY

Data Collection

1. In order to provide training and assessment services, Fresh Start Education need to collect students' personal information when enrolling in a course/qualification. This information is required to be reported to the National Centre for Vocational Education Research (NCVER) annually in accordance with the VET Quality Framework requirements, as per the Australian Vocational Education and Training Management Information Statistical (AVETMISS) Standards, and also to state/territory funding bodies for publicly funded training. Information collected is as follows:
 - Name
 - Address
 - Contact details (telephone)
 - Date of Birth
 - Gender
 - Country of birth
 - Language spoken at home
 - Level of English spoken
 - Disability information
 - Highest secondary schooling completed
 - Other qualifications completed
 - Current employment status
 - Indigenous Status
2. Fresh Start Education only collects personal information by fair and lawful means and not in an unreasonably intrusive manner.
3. The enrolment form completed by students is used to gather the information and contains a disclaimer outlining why the personal information is collected and how it is used. Students are required to sign the disclaimer as their agreement to the use of their personal information.

Use and Disclosure

4. Fresh Start Education uses the information collected for the purposes disclosed at the time of collection or otherwise as set out in this *Privacy Policy*. We will not use personal information for any other purpose without first seeking consent, unless authorised or required by law. Generally, Fresh Start Education will only use and disclose personal information:
 - a. To establish and maintain your relationship as a customer of Fresh Start Education
 - b. To provide the products and services you have requested from Fresh Start Education
 - c. To administer and manage those products and services
 - d. To report to federal/state/territory registering bodies in relation to training services provided
 - e. To a third party where written authorisation is provided by you

Fresh Start Education will not disclose information to overseas recipients.

We are required by law (under the *National Vocational Education and Training Regulator Act 2011 (Cth)* (NVETR Act)) to disclose the personal information we collect about you to the National VET Data Collection kept by the National Centre for Vocational Education Research Ltd (NCVER). The NCVER is responsible for collecting, managing, analysing and communicating research and statistics about the Australian VET sector.

We are also authorised by law (under the NVETR Act) to disclose your personal information to the relevant state or territory training authority.

The NCVER will collect, hold, use and disclose your personal information in accordance with the law, including the *Privacy Act 1988 (Cth)* (Privacy Act) and the NVETR Act. Your personal information may be used and disclosed by NCVER for purposes that include populating authenticated VET transcripts; administration of VET; facilitation of statistics and research relating to education, including surveys and data linkage; and understanding the VET market.

PRIVACY POLICY



The NCVER is authorised to disclose information to the Australian Government Department of Education, Skills and Employment (DESE), Commonwealth authorities, State and Territory authorities (other than registered training organisations) that deal with matters relating to VET and VET regulators for the purposes of those bodies, including to enable:

- Administration of VET, including program administration, regulation, monitoring and evaluation
- Facilitation of statistics and research relating to education, including surveys and data linkage
- Understanding how the VET market operates, for policy, workforce planning and consumer information.

The NCVER may also disclose personal information to persons engaged by NCVER to conduct research on NCVER's behalf. The NCVER does not intend to disclose your personal information to any overseas recipients.

For more information about how the NCVER will handle your personal information please refer to the NCVER's Privacy Policy at www.ncver.edu.au/privacy.

If you would like to seek access to or correct your information, in the first instance, please contact your RTO using the contact details listed below.

DESE is authorised by law, including the Privacy Act and the NVETR Act, to collect, use and disclose your personal information to fulfil specified functions and activities. For more information about how the DESE will handle your personal information, please refer to the DESE VET Privacy Notice at <https://www.dese.gov.au/national-vet-data/vet-privacy-notice>.

Agents, Contractors and Other Third Parties

5. Fresh Start Education's agents, contractors and other third parties, who need personal information to provide a legitimate service, are also bound by these terms of privacy to ensure your personal information always remains protected.

Use of Internet

6. Fresh Start Education may use the World Wide Web in order to transmit student's personal information from delivery sites to other sites within the organisation and to transmit details to state and territory registering bodies. These bodies manage the security of the data transmitted.

Fresh Start Education has taken all reasonable steps to protect personal information security when using the Internet however is aware that no transmission of information by email or to a registering body website is ever totally secure.

Data Quality

7. Fresh Start Education will take reasonable steps to ensure that personal information is accurate, complete and up to date. Students' are encouraged to help us keep their personal information accurate, complete and up to date by contacting Fresh Start Education and informing us of any changes to details.

Access to Records

8. Access to personal information is available on application through the Chief Executive Officer of Fresh Start Education via the submission of an *Access Authorisation Form*. Access to personal information will always be controlled. Copies of the requested information can be collected from Fresh Start Education's Head Office or posted to the student, if requested on the *Access Authorisation Form*. If the student wishes to sight the original documents, then these must be viewed at the Fresh Start Education's Head Office with a Fresh Start Education representative present.
9. Depending on the nature of the request, we will endeavour to respond within 5 working days. If it takes longer than 5 days, we will inform you of the reason for the delay.
10. Should a student wish to request the correction of information in relation to their records they must provide a written request to the Chief Executive Officer of Fresh Start Education.
11. Should a parent and/or guardian of a student over the age of 18 request access to their child's records, a written request from the student must be forwarded to the Chief Executive Officer of Fresh Start Education.
12. Fresh Start Education will not charge students for requests to access their records or for requests to make corrections to records.

Security of information

13. Fresh Start Education will ensure the security of students' information in accordance with its *Records Management Policy & Procedure*. Hard copies of student records will be secured in a locked storage room with access only by designated administration staff.

Electronic students' records are retained using AVETMISS compliant software for which only designated administration staff members have access. Fresh Start Education retains records in accordance with the timeframes identified in its *Archiving, Destruction, Retrieval Policy & Procedure*.

Privacy Concerns

14. Students' may raise any concerns they may have regarding personal information handling practices by either discussing concerns with the delivery site or by contacting Fresh Start Education administration.
15. A person or persons may raise a complaint about a breach of the *Australian Privacy Principles* that bind Fresh Start Education by making a verbal (either face to face with a staff member or by phone) or written complaint (either by letter or email). The complaint will be managed in accordance with Fresh Start Education *Complaints and Appeals Procedure*.

Policy Statement

16. Fresh Start Education will not disclose any information that we gather about our staff or students to any third party. We use the information collected only for the services we provide. If staff or student information is required by a third party, we will obtain written consent from the relevant staff or student, prior to release of any information.

Should staff or a student seek access to their information we have a documented procedure requiring authorisation before this can occur.

Fresh Start Education will make this *Privacy Policy* available to students.

If a person or body requests a copy of this *Privacy Policy* in a particular form Fresh Start Education will take such steps as are reasonable in the circumstances to give the person or body a copy in that form. Fresh Start Education complies with the following *Australian Privacy Principles*.

Part 1 — Consideration of Personal Information Privacy

Australian Privacy Principle 1

Open and Transparent Management of Personal Information

1.1 The object of this principle is to ensure that Fresh Start Education manages personal information in an open and transparent way.

Compliance with the *Australian Privacy Principles*

1.2 Fresh Start Education will take reasonable steps in the circumstances to implement practices, procedures and systems relating to functions or activities that:

- a. will ensure Fresh Start Education complies with the *Australian Privacy Principles* and a registered APP code (if any) that binds Fresh Start Education; and
- b. will enable Fresh Start Education to deal with inquiries or complaints from individuals about Fresh Start Education compliance with the *Australian Privacy Principles* or such a code.

APP Privacy policy

1.3 Fresh Start Education has a clearly expressed and up to date policy about the management of personal information.

1.4 Without limiting sub clause 1.3, the *Privacy Policy* of Fresh Start Education contains the following information:

- a. the kinds of personal information that Fresh Start Education collects and holds
- b. how Fresh Start Education collects and holds personal information
- c. the purposes for which Fresh Start Education collects, holds, uses and discloses personal information
- d. how an individual may access personal information about the individual that is held by Fresh Start Education and seek the correction of such information
- e. how an individual may complain about a breach of the *Australian Privacy Principles*, or a registered APP code (if any) that binds Fresh Start Education, and how to deal with such a complaint
- f. whether Fresh Start Education is likely to disclose personal information to overseas recipients
- g. if Fresh Start Education is likely to disclose personal information to overseas recipients—the countries in which such recipients are likely to be located if it is practicable to specify those countries in the policy.

Availability of Privacy Policy

1.5 Fresh Start Education will make its *Privacy Policy* available on its website.

1.6 If a person or body requests a copy of the *Privacy Policy* of Fresh Start Education in a particular form Fresh Start Education will take reasonable steps to give the person or body a copy in that form.

Australian Privacy Principle 2

Anonymity and Pseudonymity

2.1 Individuals must have the option of not identifying themselves, or of using a pseudonym, when dealing with Fresh Start Education in relation to a matter.

2.2 Sub clause 2.1 does not apply if, in relation to that matter:

- a. Fresh Start Education is required or authorised by or under an Australian law, or a court/tribunal order, to deal with individuals who have identified themselves; or
- b. it is impracticable for Fresh Start Education to deal with individuals who have not identified themselves or who have used a pseudonym.

Part 2 — Collection of Personal Information

Australian Privacy Principle 3

Personal information other than sensitive information

3.1 Fresh Start Education will not collect personal information (other than sensitive information) unless the information is reasonably necessary for, or directly related to, one or more function or activities.

Sensitive information

3.2 Fresh Start Education will not collect sensitive information about an individual unless:

- a. the individual consents to the collection of the information; and
- b. the information is reasonably necessary for one or more of the entity's functions or activities; or
- c. sub clause 3.4 applies in relation to the information.

- 3.3 This sub clause applies in relation to sensitive information about an individual if:
- the collection of the information is required or authorised by or under an Australian law or a court/tribunal order; or
 - a permitted general situation exists in relation to the collection of the information by Fresh Start Education; or
 - Fresh Start Education is an organisation and a permitted health situation exists in relation to the collection of the information by Fresh Start Education

Note: For permitted general situation, see section 16A. For permitted health situation, see section 16B (refer *Privacy Act 1988 Commonwealth*).

Means of collection

- 3.4 Fresh Start Education will collect personal information only by lawful and fair means.
- 3.5 Fresh Start Education will collect personal information about an individual only from the individual unless it is unreasonable or impracticable to do so.

Solicited personal information

- 3.6 This principle applies to the collection of personal information that is solicited by an APP entity.

Australian Privacy Principle 4

Dealing with unsolicited personal information

- 4.1 If:
- Fresh Start Education receives personal information; and
 - Fresh Start Education did not solicit the information.

Fresh Start Education will, within a reasonable period after receiving the information, determine whether Fresh Start Education could have collected the information under *Australian Privacy Principle 3* if Fresh Start Education had solicited the information.

- 4.2 Fresh Start Education may use or disclose the personal information for the purposes of making the determination under sub clause 4.1.

- 4.3 If:
- Fresh Start Education determines that it could not have collected the personal information; and
 - the information is not contained in a Commonwealth record.

Fresh Start Education must, as soon as practicable but only if it is lawful and reasonable to do so, destroy the information or ensure that the information is de-identified.

- 4.4 If sub clause 4.3 does not apply in relation to the personal information, *Australian Privacy Principles 5 to 13* apply in relation to the information as if Fresh Start Education had collected the information under *Australian Privacy Principle 3*.

Australian Privacy Principle 5

Notification of the collection of personal information

- 5.1 At or before the time or, if that is not practicable, as soon as practicable after, Fresh Start Education collects personal information about an individual, it will take such steps (if any) as are reasonable in the circumstances:
- to notify the individual of such matters referred to in sub clause 5.2 as are reasonable in the circumstances; or
 - to otherwise ensure that the individual is aware of any such matters.

- 5.2 The matters for the purposes of sub clause 5.1 are as follows:
- the identity and contact details of Fresh Start Education if:
 - Fresh Start Education collects the personal information from someone other than the individual; or
 - the individual may not be aware that Fresh Start Education has collected the personal information; the fact that Fresh Start Education so collects, or has collected, the information and the circumstances of that collection.
 - if the collection of the personal information is required or authorised by or under an Australian law or a court/tribunal order — the fact that the collection is so required or authorised (including the name of the Australian law, or details of the court/tribunal order, that requires or authorises the collection);
 - the purposes for which Fresh Start Education collects the personal information.
 - the main consequences (if any) for the individual if all or some of the personal information is not collected by Fresh Start Education.
 - any other APP entity, body or person, or the types of any other APP entities, bodies or persons, to which Fresh Start Education usually discloses personal information of the kind collected by the entity.
 - that the APP *Privacy Policy* of Fresh Start Education contains information about how the individual may access the personal information about the individual that is held by Fresh Start Education and seek the correction of such information.
 - that the *Privacy Policy* of Fresh Start Education contains information about how the individual may complain about a breach of the *Australian Privacy Principles*, or a registered APP code (if any) that binds Fresh Start Education, and how Fresh Start Education will deal with such a complaint.
 - whether Fresh Start Education is likely to disclose the personal information to overseas recipients.
 - if Fresh Start Education is likely to disclose the personal information to overseas recipients — the countries in which such recipients are likely to be located if it is practicable to specify those countries in the notification or to otherwise make the individual aware of them.

Part 3 — Dealing with Personal Information *Australian Privacy Principle 6*

Use or disclosure of personal information

- 6.1 If Fresh Start Education holds personal information about an individual that was collected for a particular purpose (the primary purpose), Contal Training Services will not use or disclose the information for another purpose (the secondary purpose) unless:
- the individual has consented to the use or disclosure of the information; or
 - sub clause 6.2 or 6.3 applies in relation to the use or disclosure of the information.

Note: Australian Privacy Principle 8 sets out requirements for the disclosure of personal information to a person who is not in Australia or an external Territory.

- 6.2 This sub clause applies in relation to the use or disclosure of personal information about an individual if:
- the individual would reasonably expect Fresh Start Education to use or disclose the information for the secondary purpose and the secondary purpose is:
 - if the information is sensitive information — directly related to the primary purpose; or
 - if the information is not sensitive information — related to the primary purpose; or
 - the use or disclosure of the information is required or authorised by or under an Australian law or a court/tribunal order; or
 - a permitted general situation exists in relation to the use or disclosure of the information by Fresh Start Education; or
 - Fresh Start Education is an organisation and a permitted health situation exists in relation to the use or disclosure of the information by Fresh Start Education.

Note: For permitted general situation, see section 16A. For permitted health situation, see section 16B (refer *Privacy Act 1988 Commonwealth*).

- 6.3 This sub clause does not apply.

- 6.4 If:
- the APP entity is an organisation; and
 - subsection 16B(2) (refer *Privacy Act 1988 Commonwealth*) applied in relation to the collection of the personal information by the entity; the entity must take such steps as are reasonable in the circumstances to ensure that the information is de-identified before the entity discloses it in accordance with sub clause 6.1 or 6.2.

Written note of use or disclosure

- 6.5 If Fresh Start Education uses or discloses personal information in accordance with paragraph 6.2 (e). Fresh Start Education must make a written note of the use or disclosure.

Related bodies corporate

- 6.6 If:
- Fresh Start Education is a body corporate; and
 - Fresh Start Education collects personal information from a related body corporate; this principle applies as if Fresh Start Education primary purpose for the collection of the information were the primary purpose for which the related body corporate collected the information.

Exceptions

- 6.7 This principle does not apply to the use or disclosure by Fresh Start Education of:
- personal information for the purpose of direct marketing; or
 - government related identifiers.

Australian Privacy Principle 7

Direct Marketing

- 7.1 If Fresh Start Education holds personal information about an individual, Fresh Start Education will not use or disclose the information for the purpose of direct marketing.

Note: An act or practice of an agency may be treated as an act or practice of an organisation, see section 7A (refer *Privacy Act 1988 Commonwealth*).

Exceptions — personal information other than sensitive information

- 7.2 Despite sub clause 7.1, Fresh Start Education may use or disclose personal information (other than sensitive information) about an individual for the purpose of direct marketing if:
- the organisation collected the information from the individual; and
 - the individual would reasonably expect Fresh Start Education to use or disclose the information for that purpose; and
 - Fresh Start Education provides a simple means by which the individual may easily request not to receive direct marketing communications from Fresh Start Education; and
 - the individual has not made such a request to Fresh Start Education.

- 7.3 Despite sub clause 7.1, Fresh Start Education may use or disclose personal information (other than sensitive information) about an individual for the purpose of direct marketing if:
- a. Fresh Start Education collected the information from:
 - i. the individual and the individual would not reasonably expect Fresh Start Education to use or disclose the information for that purpose; or
 - ii. someone other than the individual; and
 - b. either:
 - i. the individual has consented to the use or disclosure of the information for that purpose; or
 - ii. it is impracticable to obtain that consent; and
 - c. Fresh Start Education provides a simple means by which the individual may easily request not to receive direct marketing communications from Fresh Start Education; and
 - d. in each direct marketing communication with the individual:
 - i. Fresh Start Education includes a prominent statement that the individual may make such a request; or
 - ii. Fresh Start Education otherwise draws the individual's attention to the fact that the individual may make such a request; and
 - e. the individual has not made such a request to Fresh Start Education.

Exception — sensitive information

- 7.4 Despite sub clause 7.1, Fresh Start Education may use or disclose sensitive information about an individual for the purpose of direct marketing if the individual has consented to the use or disclosure of the information for that purpose.

Exception — contracted service providers

- 7.5 Despite sub clause 7.1, Fresh Start Education may use or disclose personal information for the purpose of direct marketing if:
- a. Fresh Start Education is a contracted service provider for a Commonwealth contract; and
 - b. Fresh Start Education collected the information for the purpose of meeting (directly or indirectly) an obligation under the contract; and
 - c. the use or disclosure is necessary to meet (directly or indirectly) such an obligation.

Individual may request not to receive direct marketing communications

- 7.6 If Fresh Start Education (the first organisation) uses or discloses personal information about an individual:
- a. for the purpose of direct marketing by the first organisation; or
 - b. for the purpose of facilitating direct marketing by other organisations; the individual may:
 - i. if paragraph (a) applies — request not to receive direct marketing communications from Fresh Start Education; and
 - ii. if paragraph (b) applies — request Fresh Start Education not to use or disclose the information for the purpose referred to in that paragraph; and
 - iii. request Fresh Start Education to provide its source of the information.
- 7.7 If an individual makes a request under sub clause 7.6, Fresh Start Education will not charge the individual for the making of, or to give effect to, the request and:
- a. if the request is of a kind referred to in paragraph 7.6(c) or (d) — Fresh Start Education will give effect to the request within a reasonable period after the request is made; and
 - b. if the request is of a kind referred to in paragraph 7.6(e) — Fresh Start Education will, within a reasonable period after the request is made, notify the individual of its source unless it is impracticable or unreasonable to do so.

Interaction with other legislation

- 7.8 This principle does not apply to the extent that any of the following apply:
- a. the *Do Not Call Register Act 2006*;
 - b. the *Spam Act 2003*;
 - c. any other Act of the Commonwealth, or a Norfolk Island enactment, prescribed by the regulations.

Australian Privacy Principle 8

Cross-border disclosure of personal information

- 8.1 Before Fresh Start Education discloses personal information about an individual to a person (the overseas recipient):
- a. who is not in Australia or a Territory
 - b. not the APP entity disclosing the personal information, and
 - c. not the individual to whom the personal information relates

Fresh Start Education will take such steps as are reasonable in the circumstances to ensure that the overseas recipient does not breach the *Australian Privacy Principles* (other than *Australian Privacy Principle 1*) in relation to the information.

Note: In certain circumstances, an act done, or a practice engaged in, by the overseas recipient is taken, under section 16C (refer *Privacy Act 1988 Commonwealth*), to have been done, or engaged in, by Fresh Start Education and to be a breach of the *Australian Privacy Principles*.

- 8.2 Sub clause 8.1 does not apply to the disclosure of personal information about an individual by Fresh Start Education to the overseas recipient if:
- a. Fresh Start Education reasonably believes that:
 - i. the recipient of the information is subject to a law, or binding scheme, that has the effect of protecting the information in a way that, overall, is at least substantially similar to the way in which the *Australian Privacy Principles* protect the information; and
 - ii. there are mechanisms that the individual can access to take action to enforce that protection of the law or binding scheme; or
 - b. both of the following apply:
 - i. Fresh Start Education expressly informs the individual that if he or she consents to the disclosure of the information, sub clause 8.1 will not apply to the disclosure;
 - ii. after being so informed, the individual consents to the disclosure; or
 - c. the disclosure of the information is required or authorised by or under an Australian law or a court/tribunal order; or
 - d. a permitted general situation (other than the situation referred to in item 4 or 5 of the table in subsection 16A (1) (refer *Privacy Act 1988 Commonwealth*) exists in relation to the disclosure of the information by Fresh Start Education; or
 - e. Fresh Start Education is an agency and the disclosure of the information is required or authorised by or under an international agreement relating to information sharing to which Australia is a party; or
 - f. Fresh Start Education is an agency and both of the following apply:
 - i. Fresh Start Education reasonably believes that the disclosure of the information is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body.
 - ii. the recipient is a body that performs functions, or exercises powers, that are like those performed or exercised by an enforcement body.

Note: For permitted general situation, see section 16A (refer *Privacy Act 1988 Commonwealth*).

Australian Privacy Principle 9

Adoption of government related identifiers

- 9.1 Fresh Start Education will not adopt a government related identifier of an individual as its own identifier of the individual unless:
- a. the adoption of the government related identifier is required or authorised by or under an Australian law or a court/tribunal order; or
 - b. sub clause 9.3 applies in relation to the adoption.

Note: An act or practice of an agency may be treated as an act or practice of an organisation, see section 7A (refer *Privacy Act 1988 Commonwealth*).

Use or disclosure of government related identifiers

- 9.2 Fresh Start Education will not use or disclose a government related identifier of an individual unless:
- a. the use or disclosure of the identifier is reasonably necessary for Fresh Start Education to verify the identity of the individual for the purposes of Fresh Start Education's activities or functions; or
 - b. the use or disclosure of the identifier is reasonably necessary for Fresh Start Education to fulfil its obligations to an agency or a State or Territory authority; or
 - c. the use or disclosure of the identifier is required or authorised by or under an Australian law or a court/tribunal order; or
 - d. a permitted general situation (other than the situation referred to in item 4 or 5 of the table in subsection 16A (1) (refer *Privacy Act 1988 Commonwealth*) exists in relation to the use or disclosure of the identifier; or
 - e. Fresh Start Education reasonably believes that the use or disclosure of the identifier is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body; or
 - f. sub clause 9.3 applies in relation to the use or disclosure.

Note 1: An act or practice of an agency may be treated as an act or practice of an organisation, see section 7A (refer *Privacy Act 1988 Commonwealth*).

Note 2: For permitted general situation, see section 16A (refer *Privacy Act 1988 Commonwealth*).

Regulations about adoption, use or disclosure

- 9.3 This sub clause applies in relation to the adoption, use or disclosure by Fresh Start Education of a government related identifier of an individual if:
- a. the identifier is prescribed by the regulations; and
 - b. Fresh Start Education is prescribed by the regulations, or is included in a class of organisations prescribed by the regulations; and
 - c. the adoption, use or disclosure occurs in the circumstances prescribed by the regulations.

Note: There are prerequisites that must be satisfied before the matters mentioned in this sub clause are prescribed, see subsections 100(2) and (3) (refer *Privacy Act 1988 Commonwealth*).

Part 4 — Integrity of Personal Information

Australian Privacy Principle 10

Quality of personal information

10.1 Fresh Start Education will take such steps (if any) as are reasonable in the circumstances to ensure that the personal information that the entity collects is accurate, up-to-date and complete.

10.2 Fresh Start Education will take such steps (if any) as are reasonable in the circumstances to ensure that the personal information that Fresh Start Education uses or discloses is, having regard to the purpose of the use or disclosure, accurate, up-to-date, complete and relevant.

Australian Privacy Principle 11

Security of personal information

11.1 If Fresh Start Education holds personal information, it will take such steps as are reasonable in the circumstances to protect the information:

- a. from misuse, interference and loss; and
- b. from unauthorised access, modification or disclosure.

11.2 If:

- a. Fresh Start Education holds personal information about an individual; and
- b. Fresh Start Education no longer needs the information for any purpose for which the information may be used or disclosed by Fresh Start Education under this Schedule; and
- c. the information is not contained in a Commonwealth record; and
- d. Fresh Start Education is not required by or under an Australian law, or a court/tribunal order, to retain the information. Fresh Start Education will take such steps as are reasonable in the circumstances to destroy the information or to ensure that the information is de-identified.

Part 5 — Access to, and correction of, personal information

Australian Privacy Principle 12

Access to Personal Information

12.1 If Fresh Start Education holds personal information about an individual, Fresh Start Education will, on request by the individual, give the individual access to the information.

Exception to access — agency

- 12.2 If:
- a. the Fresh Start Education is an agency; and
 - b. Fresh Start Education is required or authorised to refuse to give the individual access to the personal information by or under:
 - i. the Freedom of Information Act; or
 - ii. any other Act of the Commonwealth, or a Norfolk Island enactment, that provides for access by persons to documents; then, despite sub clause 12.1, Fresh Start Education is not required to give access to the extent that it is required or authorised to refuse to give access.

Exception to access — organisation

12.3 If Fresh Start Education is an organisation then, despite sub clause 12.1, Fresh Start Education is not required to give the individual access to the personal information to the extent that:

- a. Fresh Start Education reasonably believes that giving access would pose a serious threat to the life, health or safety of any individual, or to public health or public safety; or
- b. giving access would have an unreasonable impact on the privacy of other individuals; or
- c. the request for access is frivolous or vexatious; or
- d. the information relates to existing or anticipated legal proceedings between Fresh Start Education and the individual, and would not be accessible by the process of discovery in those proceedings; or
- e. giving access would reveal the intentions of Fresh Start Education in relation to negotiations with the individual in such a way as to prejudice those negotiations; or giving access would be unlawful; or
- f. denying access is required or authorised by or under an Australian law or a court/tribunal order; or
- g. both of the following apply:
 - i. Fresh Start Education has reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to the Fresh Start Education's functions or activities has been, is being or may be engaged in;
 - ii. giving access would be likely to prejudice the taking of appropriate action in relation to the matter; or
- h. giving access would be likely to prejudice one or more enforcement related activities conducted by, or on behalf of, an enforcement body; or
- i. giving access would reveal evaluative information generated within Fresh Start Education in connection with a commercially sensitive decision-making process.

Dealing with requests for access

12.4 Fresh Start Education will:

- a. respond to the request for access to the personal information:
 - i. if Fresh Start Education is an agency — within 30 days after the request is made; or
 - ii. if Fresh Start Education is an organisation — within a reasonable period after the request is made; and
- b. give access to the information in the manner requested by the individual, if it is reasonable and practicable to do so.

Other means of access

12.5 If Fresh Start Education refuses:

- a. to give access to the personal information because of sub clause 12.2 or 12.3; or
- b. to give access in the manner requested by the individual.

Fresh Start Education will take such steps (if any) as are reasonable in the circumstances to give access in a way that meets the needs of Fresh Start Education and the individual.

12.6 Without limiting sub clause 12.5, access may be given through the use of a mutually agreed intermediary.

Access charges

12.7 If Fresh Start Education is an agency; it will not charge the individual for the making of the request or for giving access to the personal information.

12.8 If:

- a. Fresh Start Education is an organisation; and
- b. Fresh Start Education charges the individual for giving access to the personal information; the charge will not be excessive and must not apply to the making of the request.

Refusal to give access

12.9 If Fresh Start Education refuses to give access to the personal information because of sub clause 12.2 or 12.3, or to give access in the manner requested by the individual, Fresh Start Education will give the individual a written notice that sets out:

- a. the reasons for the refusal except to the extent that, having regard to the grounds for the refusal, it would be unreasonable to do so; and
- b. the mechanisms available to complain about the refusal; and
- c. any other matter prescribed by the regulations.

12.10 If Fresh Start Education refuses to give access to the personal information because of paragraph 12.3 (j), the reasons for the refusal may include an explanation for the commercially sensitive decision.

Australian Privacy Principle 13

Correction of Personal Information

13.1 If:

- a. Fresh Start Education holds personal information about an individual; and
- b. either:
 - i. Fresh Start Education is satisfied that, having regard to a purpose for which the information is held, the information is inaccurate, out of date, incomplete, irrelevant or misleading; or
 - ii. the individual requests Fresh Start Education to correct the information.

Fresh Start Education will take such steps (if any) as are reasonable in the circumstances to correct that information to ensure that, having regard to the purpose for which it is held, the information is accurate, up to date, complete, relevant and not misleading.

Notification of correction to third parties

13.2 If:

- a. Fresh Start Education corrects personal information about an individual that Fresh Start Education previously disclosed to another APP entity; and
- b. the individual requests Fresh Start Education to notify the other APP entity of the correction. Fresh Start Education will take such steps (if any) as are reasonable in the circumstances to give that notification unless it is impracticable or unlawful to do so.

Refusal to correct information

13.3 If Fresh Start Education refuses to correct the personal information as requested by the individual, Fresh Start Education will give the individual a written notice that sets out:

- a. the reasons for the refusal except to the extent that it would be unreasonable to do so; and
- b. the mechanisms available to complain about the refusal; and
- c. any other matter prescribed by the regulations.

Request to associate a statement

- 13.4 If:
- a. Fresh Start Education refuses to correct the personal information as requested by the individual; and
 - b. the individual request Fresh Start Education to associate with the information a statement that the information is inaccurate, out-of-date, incomplete, irrelevant or misleading.

Fresh Start Education will take such steps as are reasonable in the circumstances to associate the statement in such a way that will make the statement apparent to users of the information.

Dealing with requests

- 13.5 If a request is made under sub clause 13.1 or 13.4, Fresh Start Education:
- a. will respond to the request within a reasonable period after the request is made; and
 - b. will not charge the individual for the making of the request, for correcting the personal information or for associating the statement with the personal information (as the case may be).