

Regulation 8.3.R2 - COMPUTING AND NETWORK FACILITIES RULES

1. Definitions

In this regulation unless a contrary intention appears–

‘Authority’ means –

- (i) in relation to the central facilities and computing and network facilities generally, the director (information technology) or a delegate of the director (information technology)
- (ii) in relation to a local facility, the relevant head of department, dean, vice-principal, senior vice–principal or deputy vice–chancellor, or a person nominated by the relevant head of department, dean, vice-principal, senior vice–principal or deputy vice–chancellor;

‘authorised purposes’ means purposes associated with work or study in the University, provision of services to or by the University, which are approved or authorised by the relevant officer or employee of the University in accordance with University policies and procedures or pursuant to applicable contractual obligations, limited personal use, or any other purpose authorised by the relevant Authority;

‘central facilities’ means the data networks owned or operated by the University for which Information Services is responsible and includes all associated computing and network facilities, but does not include any local facilities;

‘computing and network facilities’ includes, but is not limited to, computers, computer systems, data network infrastructure, dial-in network access facilities, email and other communications and information facilities together with associated equipment, software, files and data storage and retrieval facilities, all of which are owned or operated by the University and form part of the central facilities or the local facilities, as the case may be;

‘director (information technology)’ means the person holding or acting in that position in the University, or any other person nominated by the vice-chancellor to exercise that role for the purpose of this regulation.

‘external user’ means an authorised user who is an honorary, an independent contractor, a visitor, or any other authorised user who is neither a member of staff nor a student;

‘facilities’ means all or any of the central facilities, local facilities and computing and network facilities, as the context requires;

‘guidelines’ means guidelines published from time to time by or with the authority of the vice-principal (information) under section (d)10;

‘honorary’ means a person who has an unpaid appointment at the University;

‘illegal material’ means material the creation, transmission, storage, downloading or possession of which contravenes or if done in Victoria would contravene the criminal law as it applies in any jurisdiction in Australia;

‘Information Services’ means the division of the University known as Information Services or such other organisational unit as may be designated from time to time by the vice-chancellor as the unit responsible for the central facilities;

‘intellectual property’ includes the rights relating to –

- (i) literary (including computer programs), artistic, musical and scientific works;
- (ii) multimedia subject matter;
- (iii) performances of performing artists, phonograms and broadcasts;
- (iv) inventions in all fields of human endeavour;
- (v) scientific discoveries;

- (vi) industrial designs;
- (vii) trademarks, service marks and commercial names and designations;
- (viii) plant varieties;
- (ix) circuit layouts; and
- (x) confidential information;

'limited personal use' means use that –

- (i) is of a purely personal nature and not for financial gain;
- (ii) does not directly or indirectly impose an unreasonable burden on any
 - (i) facilities;
 - (ii) does not unreasonably deny any other user access to any facilities;
- (iii) does not contravene any law in any jurisdiction in Australia or any University statute, regulation, policy or procedure; and
- (iv) in the case of staff, does not interfere with the execution of duties;

'local facility' means a network of interconnected computers and equipment operated by a particular faculty, department or other organisational unit of the University and for which Information Services is not responsible, whether or not that network is also connected to the central facilities, and includes all associated computing and network facilities;

'misuse' has the meaning set out in Schedule 1 to this regulation;

'person' includes a body politic or corporate as well as an individual;

'provider' means the University organisational unit which provides and manages any part of the facilities, or an external entity which provides computing and network facilities to the University;

'senior vice–principal' means the person holding or acting in that position in the University or any other person nominated by the vice–chancellor to exercise that role for the purpose of this regulation;

'staff' means staff of the University;

'student' includes a person who was a student at the time of any alleged breach of this regulation, and a person who is a student for the purposes of Statute 13.1 – Student Discipline;

'University copyright officer' means the officer designated by the vice-chancellor as responsible for overseeing copyright issues within the University;

'use' in relation to any facility, means any act or omission by a user which affects in any way the operation of the central facilities or a local facility;

'user' means any member of staff or a student, or any other person, who is authorised under section 3 of this regulation to use the central facilities or a local facility, including a provider and any officer, employee or agent of a provider;

'vice-principal (human resources)' means the person holding or acting in that position in the University, or any other person nominated by the vice-chancellor to exercise that role for the purpose of this regulation;

2. Purpose and Application

- (1) The purpose of this regulation is to establish a framework for the use of facilities which, so far as possible -
 - (a) respects the rights of all users;
 - (b) ensures facilities and related physical resources are used for purposes authorised by the University;
 - (c) ensures the security and integrity of facilities; and

- (d) ensures facilities are used in a way which complies with all relevant laws, subordinate legislation of the University, and contractual obligations governing the use of the facilities.
- (2) To the maximum extent possible, this regulation applies to all use of facilities.
- (3) This regulation is not intended to and does not operate so as to exclude the operation of any other law, statute or regulation.

3. Access by Users

Central Facilities

- (1) No person may use central facilities without first -
 - (a) obtaining the authorisation of the director (information technology) or his or her delegate; and
 - (b) agreeing to abide by any conditions of use applicable to the central facilities determined by the director (information technology) from time to time.
- (2) Authorisation under section 3(1)(a) does not constitute authorisation to use the local facilities.
- (3) The director (information technology) or his or her delegate may impose such restrictions or conditions on the granting of authorisation to any person under section 3(1)(a) as he or she thinks fit, including -
 - (a) the mandatory use of a username and password, or other authentication method;
 - (b) restrictions or conditions as to the facilities the person is authorised to use; and
 - (c) the provision of acknowledgments by the person to the effect that he, she or it will abide by this regulation and any applicable conditions of use, including-
 - (i) written acknowledgments signed by the user; and
 - (ii) requirements that the user click on or enter an acknowledgment as a condition of access to any facilities.

Local Facilities

- (4) No person may use a local facility without first-
 - (a) obtaining the authorisation of the relevant Authority; and
 - (b) agreeing to abide by any conditions of use applicable to that facility determined by the relevant Authority from time to time.
- (5) Authorisation under section 3(4)(a) does not constitute authorisation to use the central facilities.
- (6) The relevant Authority may impose such restrictions or conditions on the granting of authorisation to any person under section 3(4)(a) as he or she thinks fit, including-
 - (a) the mandatory use of a username and password, or other authentication method;
 - (b) restrictions or conditions as to the facilities the person is authorised to use; and
 - (c) the provision of acknowledgments by the person to the effect that he, she or it will abide by this regulation and any applicable conditions of use, including-
 - (i) written acknowledgments signed by the user; and
 - (ii) requirements that the user click on or enter an acknowledgment as a condition of access to any facilities.

Exemptions

- (7) The director (information technology) may exempt any person, or any facilities, from the operation of sections 3(1) or 3(3), in such circumstances and on such conditions as he or she thinks fit.

- (8) In exercising his or her discretion under section 3(7), the director (information technology) must have regard to the purpose of this regulation, the interests of the University and any relevant, generally accepted academic or industry standard concerning access to computing and network facilities.
- (9) The director (information technology) may revoke or withdraw an exemption under section 3(7) at any time in his or her absolute discretion.
- (10) The relevant Authority may exempt any person, or any relevant local facility, from the operation of section 3(4) in such circumstances and on such conditions as he or she thinks fit.
- (11) In exercising his or her discretion under section 3(10), the relevant Authority must have regard to the purpose of this regulation, the interests of the University and any relevant, generally accepted academic or industry standard concerning access to computing and network facilities.
- (12) The relevant Authority may revoke or withdraw an exemption under section 3(10) at any time in his or her absolute discretion.

4. Privileges and Responsibilities of Users

- (1) Facilities may only be used for authorised purposes.
- (2) No user may engage in any act or practice, or omit to do any act or practice, which constitutes a misuse of any of the facilities.
- (3) Any use of facilities which incurs a charge from a provider must be approved by the provider, and if applicable, also by the organisational unit which will be paying the charge.
- (4) Any user who becomes aware that facilities are being used by any person to infringe the intellectual property rights of another person, or that the effect of any use of any facilities is to infringe such rights, must notify the University copyright officer forthwith.

5. Monitoring of Facilities

- (1) A provider may at any time monitor, inspect, access or examine any facilities for any purpose permitted by this regulation, and for the purposes of-
 - (a) facilitating the efficient operation and management of the facilities;
 - (b) protecting the integrity of the facilities;
 - (c) investigating alleged misuse;
 - (d) auditing the assets of the University; or
 - (e) logging and general security.
- (2) Nothing in this regulation is intended to limit the circumstances in which a provider may be required by law to monitor, inspect, access or examine any facilities, or to disclose to any other person any personal or other information stored on those facilities.

6. Taking Down, Removal of Material

- (1) A provider may at any time, without prior notice, remove or disable access to any material stored on or accessible via any facilities which it considers constitutes or may constitute or be in furtherance of misuse or possible misuse of any facilities.

- (2) Without limiting section 6(1), a provider may at any time, without prior notice, remove or disable access to any material stored on or accessible via any facilities which it considers infringes or may infringe the intellectual property rights of any person.
- (3) Where a person is aggrieved by a decision to remove or disable access to material under this section-
 - (a) he or she may provide to the director (information technology) a written submission in response to the decision;
 - (b) the director (information technology) or his or her delegate must consider any such submission and investigate the matter and decide, as soon as practicable, whether to uphold, revoke or alter the decision, and advise the aggrieved person of that decision;
 - (c) in making a decision under section 6(3)(b), the director (information technology) or his or her delegate must have regard to the purpose of this regulation and the interests of the University; and
 - (d) a decision by the director (information technology) or his or her delegate under section 6(3)(b) is final.

7. Provider Powers and Responsibilities

- (1) Providers must offer their services in a professional manner with appropriate efficiency, reliability and security, considering the needs of their own users and wider user communities within and beyond the University. Staff of providers must be properly qualified and provided with appropriate training.
- (2) Providers must impose appropriate security controls on access to facilities under their control, including in relation to usernames, passwords and other authentication methods.
- (3) Providers must take reasonable steps to ensure that their officers, employees and agents use facilities only for authorised purposes and that they do not use facilities in a way which constitutes misuse for the purposes of this regulation.
- (4) Providers and their officers, employees and agents must not access information stored on or passing through facilities unless that information is required for the proper performance of their duties.
- (5) Providers must maintain and retain for at least six months a record of users who have used facilities under their control and may use those records for purposes such as monitoring and managing the performance of facilities, cost recovery and load management.
- (6) The director (information technology), Authorities and investigators under section 8 may request that providers furnish records under section 7(5) for the purposes of investigating alleged misuse of facilities, and providers must comply with any such requests.
- (7) Without limiting section 8, providers may, without prior notice, suspend or withdraw any service or the access of any user to facilities, for the purposes of-
 - (a) maintenance and upgrading of facilities;
 - (b) preventing misuse of facilities;
 - (c) preserving files or data; or

- (d) such other purposes as the provider considers necessary in order to maintain or improve the operation, integrity or security of any facilities.
- (8) Providers may impose and collect proper charges for the use of facilities under their control or the provision of related services.
- (9) Providers must obtain approval from the director (information technology) for any computer or network naming or numbering system, or management practice, which has an impact beyond the facilities under the control of the provider.

8. Enforcement

- (1) In this section, 'investigator' means a representative of a provider or an Authority.
- (2)
 - (a) An investigator may, in his or her discretion, investigate an allegation of misuse which is brought to his or her attention.
 - (b) If an investigator considers that an allegation of misuse which is brought to his or her attention would, if substantiated, constitute a significant and unacceptable abuse of any facilities, then he or she must –
 - (i) investigate the allegation under this section; or
 - (ii) if the investigator is a person other than the director (information technology), refer the allegation to the director (information technology) for investigation under this section; or
 - (iii) if the user is a student, refer the allegation to be dealt with as an allegation of general misconduct under Statute 13.1; or
 - (iv) if the user is a member of staff, recommend that the allegation be dealt with under applicable staff discipline or other relevant procedures or policies; or
 - (v) recommend that the allegation be dealt with under the provisions of any applicable contract.
- (3) If, as a result of an investigation under section 8(2), an investigator is satisfied on the balance of probabilities that misuse of any facilities has taken place, he or she must -
 - (a) prepare a written report setting out particulars of the misuse and of the investigation undertaken, and any action taken by the investigator under section 8(4);
 - (b) if the investigator is a person other than the director (information technology), provide a copy of that report to the director (information technology);
 - (c) if the investigation concerned alleged misuse of a local facility, and the investigator is a person other than the Authority with responsibility for that facility, provide a copy of the report to that Authority; and
 - (d) if the allegation of misuse was made against a member of staff or an honorary, provide a copy of that report to the vice-principal (human resources).
- (4) If, as a result of an investigation under section 8(2), an investigator is satisfied on the balance of probabilities that there has been misuse of any facilities by any user, he or she may, in his or her discretion do one or more of the following-
 - (a) decide to take no further action in relation to the alleged misuse;
 - (b) counsel the user on appropriate use of the facilities;
 - (c) if the user is a student, recommend that the allegation be dealt with as an allegation of general misconduct under Statute 13.1;
 - (d) if the user is a member of staff, recommend that the allegation be dealt with under applicable staff discipline or other relevant procedures or policies;

- (e) if the user is an external user, recommend that the allegation be dealt with under applicable provisions of any contract or otherwise as determined by the senior vice-principal or his or her delegate;
 - (f) decide to suspend or withdraw any service or the access of any user to any facilities, except that where the user is a student, any such decision about access to email can be made only with the approval of the academic registrar or delegate, or pursuant to the penalty provisions in Statute 13.1 – Student Discipline following investigation of the allegation in accordance with that Statute; or
 - (g) require the user to indemnify or compensate the University or a provider for the reasonable loss and damage occasioned by reason of the misuse.
- (5) Where a decision has been made under section 8(4)(b), (4)(f) or (4)(g) in relation to misuse of a local facility by a person other than the relevant Authority or the director (information technology) -
- (a) the investigator must notify the affected user as soon as practicable in writing of the decision, with reasonable particulars, and of the right referred to in section 8(5)(c);
 - (b) the investigator must provide the relevant Authority and the director (information technology) with a copy of the notice referred to in section 8(5)(a) as soon as practicable;
 - (c) the affected user may, within seven days of receiving the notice referred to in section 8(5)(a), provide to the relevant Authority a written submission in response to the decision;
 - (d) the relevant Authority or his or her delegate, who must not be the investigator, must consider the decision and such submission in response and decide, within seven days of receipt, whether to uphold, revoke or alter the decision, and advise the affected user of his or her decision as soon as practicable; and
 - (e) a decision by the relevant Authority or his or her delegate under section 8(5)(d) is final.
- (6) Where an allegation of misuse has been made against a member of staff or an honorary, the relevant Authority must, if practicable, consult the vice-principal (human resources) or his or her delegate before making a decision under section 8(5)(d).
- (7) Except where section 8(5) applies, where a decision has been made under section 8(4)(b), (4)(f) or (4)(g) by a person other than the director (information technology) -
- (a) the investigator must notify the affected user as soon as practicable in writing of the decision, with reasonable particulars, and of the right referred to in section 8(7)(c);
 - (b) the investigator must provide the director (information technology) with a copy of the notice referred to in section 8(7)(a) as soon as practicable;
 - (c) the affected user may, within seven days of receiving the notice referred to in section 8(7)(a), provide to the director (information technology) a written submission in response to the decision;
 - (d) the director (information technology) or his or her delegate must consider the decision and such submission in response and decide, within seven days of receipt, whether to uphold, revoke or alter the decision, and advise the affected user of his or her decision as soon as practicable;
- and
- (e) a decision by the director (information technology) or his or her delegate under section 8(7)(d) is final.

- (8) Where an allegation of misuse has been made against a member of staff or an honorary, the director (information technology) must, if practicable, consult the vice-principal (human resources) or his or her delegate before making a decision under section 8(7)(d).
- (9) Where a decision has been made under section 8(4)(b), (4)(f) or (4)(g) by the director (information technology)-
 - (a) the director (information technology) must notify the affected user as soon as practicable in writing of the decision, with reasonable particulars, and of the right referred to in section 8 (9)(c);
 - (b) the director (information technology) must, if the decision concerns a local facility for which the director (information technology) is not the responsible authority, provide a copy of the notice referred to in section 8(9)(a) as soon as practicable to that authority;
 - (c) the affected user may, within seven days of receiving the notice referred to in section 8(9)(a), provide to the vice-chancellor or his or her delegate a written submission in response to the decision;
 - (d) the vice-chancellor or his or her delegate must consider the decision and any submission in response and decide, within seven days of receipt, whether to uphold, revoke or alter the decision, and advise the affected user of his or her decision as soon as practicable; and
 - (e) a decision by the vice-chancellor or his or her delegate under section 8(9)(d) is final.
- (10) Where an allegation of misuse has been made against a member of staff or an honorary, the vice-chancellor must, if practicable, consult the vice-principal (human resources) or his or her delegate before making a decision under section 8(9)(d).

9. University Liability

To the extent allowed by law, the University is not liable for loss, damage or consequential loss or damage arising directly or indirectly from -

- (a) use or misuse of any facilities;
 - (b) loss of data or interference with data stored on any facilities;
 - (c) interference with or damage to equipment used in conjunction with any facilities;
- or
- (d) any acts taken or decisions made in accordance with this regulation.

10. Guidelines and Interpretation

- (1) The director (information technology) may publish guidelines from time to time in relation to the following matters-
 - (a) activities which are considered to impose an unreasonable burden on the central facilities or any local facility;
 - (b) journals and other publications, including online publications such as e-zines and website or blog journals, which may be published using the facilities;
 - (c) record-keeping by providers; and
 - (d) appropriate security controls.
- (2) Guidelines published by the director (information technology) from time to time under section 10(1) may be taken into account in determining whether a user has done, or omitted to do, any act or practice which constitutes a misuse of any of the facilities.

- (3) For the avoidance of doubt, the provisions of sections 3(3)(b), 6(1), 6(2) and 7(7) apply notwithstanding section 8(4)(f), except that under section 7(7)(b), access to student email may be suspended only with the approval of the academic registrar or delegate.

Schedule 1

'Misuse'

For the purposes of this regulation, 'misuse' includes, but is not limited to -

- (a) use for any purpose other than an authorised purpose;
- (b) use that causes or contributes to a breach of any provision of a law, statute, regulation, subordinate instrument or code of practice or conduct applying to the University or to which users are subject;
- (c) use that contravenes a University statute, regulation, rule, policy or procedure;
- (d) creating, transmitting, storing, downloading or possessing illegal material;
- (e) the deliberate or reckless creation, transmission, storage, downloading, or display of any offensive or menacing images, data, or other material, or any data capable of being resolved into such images or material, except in the case of the appropriate use of facilities for properly supervised University work or study purposes;
- (f) use which constitutes an infringement of any intellectual property rights of another person;
- (g) communications which would be actionable under the law of defamation;
- (h) communications which misrepresent a personal view as the view of the University;
- (i) deliberate or reckless undertaking of activities resulting in any of the following-
 - (i) the imposition of an unreasonable burden on the central facilities or a local facility;
 - (ii) corruption of or disruption to data on the central facilities or a local facility, or to the data of another person;
 - (iii) disruption to other users; or
 - (iv) introduction or transmission of a virus into the facilities.
- (j) circumventing user authentication or access control measures, security or restrictions upon the use of any facilities or account, including the unauthorised distribution or use of tools for compromising security, including but not limited to password guessing programs, cracking tools, packet sniffers or network probing tools;
- (k) gambling on-line, other than participation in approved football-tipping and like competitions, where the primary purpose is social rather than financial;
- (l) use of any facilities for sending junk mail or unsolicited bulk messages without University approval, spam, for-profit messages, or chain, hoax or scam letters or messages;
- (m) use of any facilities for the purposes of any private business whether for profit or not, or for any business purpose other than University business, without prior approval from the vice-chancellor;
- (n) use of any facilities to publish a journal or any other publication, including an online publication such as an e-zine or website or blog journal, except where the journal or publication is of a kind authorised by any guidelines published by the director (information technology) under section 10;
- (o) subscribing to list servers, mailing lists and other like services for purposes other than University work or study or limited personal use;
- (p) participation in on-line conferences, chat rooms, discussion groups or other like services for purposes other than University work or study or limited personal use;

- (q) unauthorised accessing of information, including but not limited to unauthorised access to servers, hard drives, email accounts or files;
- (r) unauthorised reserving of, or exclusion of others from using, any facilities;
- (s) breaching the University's Privacy Policy;
- (t) performing an act which will interfere with the normal operation of any facilities;
- (u) unauthorised use of the University crest;
- (v) representing that a message or material comes from another person without that person's authorisation;
- (w) knowingly running, installing or distributing on any facilities a program intended to damage or to place excessive load on any facilities, including without limitation programs in the nature of computer viruses, trojan horses and worms;
- (x) failure to comply with the conditions of use imposed by an external provider when that provider's facilities or services are used in conjunction with any facilities;
- (y) providing a password or other means of authentication for any facilities to another person without prior written approval from the relevant provider, or failing to take reasonable care to protect a password or other means of authentication for any facilities from being accessed or used by another person;
- (z) failing to exercise reasonable care in the use, management and maintenance of facilities, including but not limited to taking reasonable steps to ensure security and integrity of facilities, including protection of equipment, systems and data from theft, unauthorised use or viruses;
- (aa) failing to comply with any reasonable instruction given by or with the authority of the University copyright officer to remove or disable access to material;
- (bb) aiding, abetting, counselling or procuring a person to do any of the things referred to in paragraphs (a) to(aa);
- (cc) inducing or attempting to induce a person to do any of the things referred to in paragraphs (a) to(aa);
- (dd) being in any way, directly or indirectly, knowingly concerned in, or a party to, any of the things referred to in paragraphs (a) to(aa);
- (ee) conspiring with others to do any of the things referred to in paragraphs (a) to (aa);
and
- (ff) attempting to do any of the things referred to in paragraphs (a) to (aa).

[Made by Council 7/9/09 – effective 22/12/09; sections 8(2)(b) and 8(4)(f) amended 29/4/13;
sections 8(2), 8(4) and 10 amended 8/7/13;]