

Spam Act Compliance Procedure

Section 1 - Introduction

(1) This Procedure has been written to ensure that the University complies with the provisions of the [Spam Act 2003 \(Cth\)](#) ("The Act") when sending emails to Staff and Students.

Section 2 - Scope

(2) This Procedure sets out a framework for managing University email lists in accordance with the Act. This Procedure is an adjunct to the University's policies on the use of email set out in the [ICT Acceptable Use Policy](#) and the [Email Distribution List Policy](#).

Section 3 - The Requirements of the Spam Act

(3) All email messages that you send from your University email account must comply with the Act. You must be aware of the requirements of the Act.

(4) Under the Act you must include accurate and up to date contact details in every message you send.

(5) The Act distinguishes between commercial and factual electronic messages. Under the Act, whether or not a message is a commercial electronic message will be determined by the purpose for which it was sent. For example, the following would be commercial electronic messages:

- a. unsolicited commercial electronic messages offering to supply, advertise or promote goods / services (for example, promotions, special offers, and product updates) or business opportunities; or
- b. factual electronic messages that provide a link to a commercial website, including email newsletters, updates, and bulletins.

(6) The Act applies to the sending of all electronic messages, but is particularly relevant to the sending of commercial electronic messages to email address lists. Under the Act you may send a commercial electronic message only if:

- a. the consent of the recipient can be construed, a functional unsubscribe facility allows the recipient to withdraw their consent at any time, and any requests to unsubscribe are actioned within 5 days; or
- b. the message relates to goods and services supplied by the University and are sent to current or former students, or members of current or former students' households.

(7) Under the Act you must not supply, acquire or use "address-harvesting software" or use address lists generated from this software. "Address-harvesting software" is software that searches the Internet for email addresses. For further details, see the Act.

(8) The sending of any emails outside of these guidelines is not authorised by the University and you may be held liable for any breach of the Act if you send such emails. You must therefore take appropriate action to ensure that your emails comply with the Act.

(9) The Act sets financial and other penalties depending on the severity of the breach of the Act. For further details, see the Act.

Section 4 - University Email Lists

(10) Two types of lists can now be set up for use within the University:

- a. Mandatory membership lists from which members cannot unsubscribe.
- b. Voluntary membership lists from which recipients may choose to unsubscribe.

(11) Voluntary membership lists must be used for commercial messages. The Act exempts Universities for commercial messages about their services sent to current or former students (under the Act these are called "designated commercial electronic messages"). These can be sent using a mandatory membership list. Commercial messages about the services provided by affiliated bodies, such as the University Union or Bookshop, are not exempt.

(12) Mandatory membership lists may be used for:

- a. commercial messages to current or former students about University products and services;
- b. messages from the University to its employees, affiliates, title-holders and contractors unless the primary purpose of the message is to promote, sell or advertise goods or services for which the recipients of the message are asked to pay;
- c. messages promoting internal training courses for which the University meets the cost.

(13) Links to pages within the University website can be included in messages unless the primary purpose of linking to the web page is to promote, sell or advertise goods or services for which the recipients of the message are asked to pay. (See Section 6 – Appendix A for a table showing how these types of lists relate to the Act requirements)

Section 5 - Non-University Lists (including Learned Societies and Professional Bodies)

(14) To ensure compliance with the consent provisions of the Act, Staff who maintain such lists should:

- a. send an annual email to members of the list seeking their consent (known as a "confirmation of consent email" in the Act) to continue to receive emails from the learned society or professional body.

See Section 7 – Appendix B for a template "confirmation of consent" message.

- a. allow recipients to unsubscribe from the list.

See Section 8 – Appendix C for the unsubscribe text that should be included in every email.

Section 6 - Appendix A: Summary of Spam Act Requirements and Types of Emails

Spam Act Category	University Email List Category	Description	Unsubscribe Required?	Consent	Contact Details	Examples
Factual electronic message	Mandatory membership list that cannot be unsubscribed from. To be used for delivery of University information to students and staff.	The primary purpose of the message is to communicate facts, NOT to to promote, sell or advertise goods or services.	No	Not required	All mail must contain accurate contact details of the sender	Mail to all staff about Enterprise Bargaining. Mail to a group of students about course requirements
Commercial electronic message	Voluntary membership list that can be used to advertise goods and services to staff and students.	Messages primarily intended to promote, sell or advertise goods or services, or to link to sites that do.	Yes	Required, but initial consent can be inferred for staff and students based on relationship with University. Consent should be written into the agreements signed on enrolment and appointment.	All mail must contain accurate contact details of the sender	Mail from affiliated body, eg Student Union, with links to ACU site. Inside ACU email newsletter to all staff (contains links to commercial sites, can contain commercial offers)
Designated Commercial electronic message	Mandatory membership list can be used	Applies only to emails about University goods or services sent to current or former students or members of students' households. (Mail to staff or from affiliated bodies is not included in this category)	No	Not required	All mail must contain accurate contact details of the sender	University mail to alumni advertising post-graduate programs. (Mail from the Student Union about Union Services is not exempt)

Section 7 - Appendix B: Confirmation of Consent Message

This email has been sent to you on behalf of (INSERT NAME OF GROUP or SOCIETY) by (NAME and position)
The purpose of writing to you is to confirm that you wish to continue to subscribe to our mailing list, and receive information via email, including newsletters, invitations and other communications from this email address.
To remain on our distribution list you do not need to do anything. If you do not reply, we will continue sending you relevant information.
If you would prefer not to receive further messages from us please click on the following link; Please note that you can unsubscribe at any time.

Section 8 - Appendix C: Unsubscribe Message for each Email

To unsubscribe from this email list, and no longer receive the messages sent to members of the list, please click on the following link: [LINK]

Section 9 - Review

(15) Unless otherwise indicated, this Procedure will still apply beyond the review date.

Status and Details

Status	Current
Effective Date	28th February 2024
Review Date	30th April 2024
Approval Authority	Vice-Chancellor and President
Approval Date	28th February 2024
Expiry Date	Not Applicable
Responsible Executive	Russell Parker Chief Information and Digital Officer
Responsible Manager	Russell Parker Chief Information and Digital Officer
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