



Unilink

Legal & Risk Newsletter

Who are we?

From the General Counsel



The Legal & Risk team was established in October 2005 as part of the Division of Services and Resources, to provide legal, compliance, insurance and risk management support and advice to the University. Our mission is to engage with the University community to enhance its approach to compliance, governance and sound decision-making, and to empower individuals within the University to confidently pursue the University's objectives.

Legal & Risk provides advice, information and support in the following areas (among some other specialties):

- General legal and [compliance](#) matters
- [Contract](#) planning, drafting, review and negotiation
- [Copyright](#)
- Privacy Protection
- [Trusts and Estates](#), and trusts management
- Representation in tribunals and court
- Investigations by the Ombudsman, Human Rights Commissioner and other regulatory bodies
- Policy Review
- [Insurance](#) (including Public & Products Liability, [Travel insurance](#) and Professional Indemnity) and Claims Management
- Internal Audit liaison
- [Risk Management](#)
- Governance

We are here to help, so please contact us early. You don't need to have identified a problem before you call us. When we provide you with advice, tell us if you do not understand something and ask as many questions as you need to. Let us know if you are not satisfied with any part of our service or if you have any suggestions for improvement. Feel free to contact us by phone (8313 4539) or via email (helpdesklegal@adelaide.edu.au).

If you would prefer to meet one of us in person, call the number above to arrange an appointment:- we are located on the ground floor and basement of the Mitchell Building. We can come to you too.

Copyright reminders for the new academic year

The University has various statutory licence schemes and arrangements that permit it to use copy-righted material in particular ways. But not every use will be permitted, and some permitted uses may be subject to certain conditions.

Here are **10 tips** for staying on the right side of copyright laws when using third-party material (ie. any content which was authored or created by someone else, whether published or not) in your course materials and lectures:

1. Use the [Digital Resource Management Centre \(DRMC\)](#) if you want to digitise text materials to include in course readers
2. If making photocopies, remember the '[10% or 1 chapter](#)' rule of thumb
3. If your lecture slides include material copied in reliance on the Part VB licence, include the [Part VB warning notice](#)
4. Where possible, use hyperlinks rather than copying from external websites
5. You can screen a DVD in class, but you must not record the lecture while the DVD is playing
6. Do not use YouTube videos unless you are confident that the video has been uploaded by the copyright owner
7. YouTube videos may only be streamed - do not download, record or make copies of them
8. If you'd like to use film material, consider obtaining a recording from TV:- the University has a very flexible licence to use TV broadcasts
9. Always provide an accurate source citation and attribution of the creator (author/artist/photographer)
10. Don't distribute past students' work as examples unless you have their permission

For more information, visit the Copyright website: www.adelaide.edu.au/copyright/ or contact the University's Copyright Officer (Geraldine Yam) on 8313 4244 or geraldine.yam@adelaide.edu.au.



Vexatious Litigation

Vexatious litigation is legal action that is undertaken only to cause trouble or inconvenience for the other party. It may take the form of an unnecessary or frivolous lawsuit, or may be the repetitive, burdensome, and unwarranted filing of meritless motions. Filing vexatious litigation is considered an abuse of the judicial process and may result in sanctions against the offender.



Requests to verify academic qualifications

The University is often asked to verify the academic qualifications of a graduate, or to authenticate a University parchment. Such enquiry may be made by other tertiary institutions as part of their enrolment processes; prospective employers as part of their recruitment processes; or parchment plaque companies processing orders for graduates.

Who should deal with these requests?

All such requests should be directed to the Graduations Office. The Graduations Office will check the official student record and the certificate number of the parchment, and then advise the enquiring party accordingly.

As the University's graduate roll is a matter of public record, there are no privacy restrictions to the University providing confirmation of an individual's academic qualifications.



What if the details don't match up?

On occasion, the Graduations Office has found that the person has not qualified for the degree they claim to hold; or that the certificate number on the parchment corresponds to a different graduate; or the name of the degree on the parchment has been altered from the original. In such cases, the Graduations Office informs the person seeking verification that we have no records that match their enquiry.

Is such falsification illegal?

Yes! People who seek to gain a benefit by falsely claiming to hold qualifications, are likely to be in breach of the dishonesty provisions under the *Criminal Law Consolidation Act*. Additionally, use of a doctored parchment is an unauthorised use of the University's insignia and therefore a breach of the *University of Adelaide Act*.

What action can be taken against the individual?

In general, it would be up to the enquiring organisation to take such action as it sees fit, as it has been the target of the illegal activity (as opposed to the University being the target).

Where there has been a falsified parchment, Legal & Risk will work with the Graduations Office to formulate a letter to the individual to request an explanation for their actions and destruction of all copies of the false parchment. In some circumstances (eg. if there is no response to communication), the matter is reported to the police.

If the individual is a current staff member or student of the University, such conduct would be investigated under the University's [Fraud Control Policy](#) and [Rules for Student Conduct](#).

For more information, contact katherine.edmond@adelaide.edu.au (Graduations Officer) on 8313 5881.

2013 Education & Awareness sessions

We will be offering education and awareness sessions to all areas of the University during 2013. If you would like to learn more about legal, risk, compliance or insurance issues, we can tailor a session for you and your area. Sessions can range from 1 hour to a half-day workshop.

We can help you with. . .

Contract Management

We explain the concept of contracting in the context of the University workplace and outline the processes associated with the development, negotiation, formalisation, execution, registration and ongoing management of agreements entered into on behalf of the University.

Risk Management

We introduce the concepts of risk management and how they relate to the University. We outline the tools and resources available to help you better manage risk and explain the responsibilities all staff have in being risk aware.

Copyright

We provide an overview of copyright compliance in the context of teaching and research, and outline what licences and exemptions can be relied on for University purposes, as well as the tips and traps for copyright compliance in the digital environment.

Competition & Consumer Law

We provide an overview of the Competition and Consumer Act (unfair competition and trade practices), focussing on misleading and deceptive conduct, and making accurate representations to student and business markets. This session may be tailored for specific areas.

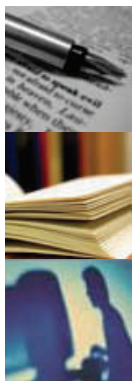
University Insurance and Your Role

This session provides an overview of the University's insurance portfolio. Staff have an important role to play in identifying and managing the information necessary to inform the process of designing and negotiating the University's insurance program. The session also explains the annual declaration process (highly relevant for all Schools) and looks at notifiable event reporting and the claims management process.

Fraud Control—We outline what staff should do if fraudulent behaviour is suspected.

To inquire about a tailored training session for your area about these topics or any others, please email helpdesklegal@adelaide.edu.au.

Stay tuned for 2013 session dates





Protection of the University's cultural heritage

The University possesses a myriad of rare, fascinating and culturally significant items. The University's Special Collections, the Physics Museum and the Museum of Classical Archaeology (among others), house more than 500,000 listed heritage objects, many of which have been acquired under the terms of a trust or bequest. Generally, the University chooses to preserve its history by storing heritage items indefinitely, but at times, items are donated to other collections, or even sold. Did you know that there are restrictions around the sale of such items?

The legislation

The [Protection of Movable Cultural Heritage Act 1986 \(Cth\)](#) prohibits the **export** (as opposed to the transport) of certain cultural property, because their loss would significantly diminish Australia's cultural heritage. The Act also implements a system of export permits for Australian 'protected objects' based on their age, value or significance.

What is cultural property?

Cultural property is an object considered to form an important part of our nation's identity due to age, value, rarity, representation in public collections or national significance.

Class A objects are those of such significance to Australia that they *may not* be exported:- such as Ned Kelly's armour, Victoria Crosses awarded to Australian recipients, and Indigenous and Torres Strait Islander human remains and secret sacred objects.

Class B objects are those items which *may be* exported if granted a special permit under the Act, such as:

- Indigenous art and artefacts (eg. rock art, sacred objects)
- Scientific, agricultural and archaeological artefacts (eg. tools, weapons, machinery)
- Fossils, meteorites and minerals
- Historical documents (eg. letters, ledgers, recordings, maps)
- Sporting trophies and memorabilia
- Books, stamps, coins and medals



How does the Act apply to the University?

The University possesses **Class A** objects, including a Victoria Cross medal that once belonged to Daisy Bates, an Irish Australian journalist, welfare worker and student of Australian Aboriginal culture and society.

Objects such as this, *may not* be sold to an overseas resident under any circumstances.

There are also numerous **Class B** items in various collections throughout the University.

Class B items include;

- rare books and manuscripts
- scientific specimens and fossils
- blood slides; and
- relics and artefacts



While it is *unlikely* that the University would sell a Class B item, it happens on occasion. The Act says that if a Class B item *were* to be sold, it must either be sold to a resident of Australia, or a special export permit must be obtained to export it overseas.

How would I know if an object in a University collection is 'protected'?

It is fair to presume that any object relating to Lord Florey, William Henry Bragg or Lawrence Bragg (University of Adelaide Alumni and Nobel prize winners), will be classified as Class B under the Act, and there will be many others.

Staff who manage a Collection identified in the [Collections Management Policy](#), or a Collection that has subsequently been identified since the Policy was drafted in 2007, may already know the heritage value of objects within their Collection. But some objects will have significance beyond what you might think. Staff should consult with Mirna Heruc (Art & Heritage Collections Manager) if they are unsure of the heritage and financial value of their collection.

Whether or not the Act applies to your Collection, care should be taken to properly document and preserve *all* heritage items in accordance with the [Collection Management Procedures](#).

Staff should contact Mirna Heruc and Joe Di Pinto (Manager Insurance) if they are considering transporting or exporting a heritage item, as additional transit insurance may be required.

For more information, refer to the Protection for Movable Cultural Heritage Act 1986 (Cth) summary, available on the [Resources](#) page of the Legal & Risk website.

New Insurance Guides

2013 Insurance Guides are available from the Legal & Risk website www.adelaide.edu.au/legalandrisk/insurance.

Download guides for University Travel, Clinical Trials, Personal Accident and Student Work Experience (among others). Guides contain specific information about each category of insurance, as well as proof of insurance.

For all insurance enquiries, contact Joe Di Pinto (Manager Insurance) on 8313 4635 or Tom Pontt (Insurance Officer) on 8313 3878.

