



PRIVACY POLICY

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1. PURPOSE

This Privacy Policy sets out how the Justice and Community Safety (JACS) Directorate (the directorate) manages your personal information when performing its functions and activities.

The *Information Privacy Act 2014*, including the Territory Privacy Principles (TPPs), specifies the directorate's legal obligations when collecting and handling your personal information.

This policy is made in accordance with TPP 1.3 (TPP Privacy Policy).

Access the [Information Privacy Act](#).

This Privacy Policy will be updated in accordance with changes to information handling practices. Updates will be published on the JACS directorate website.

View the [ACT Government Web Privacy Policy](#).

2. DIRECTORATE FUNCTIONS AND ACTIVITIES

The directorate seeks to maintain a safe and just community for all in the ACT, where people's rights and interests are respected and protected. To achieve this objective, we collect, hold, use and disclose personal information where it is necessary to fulfil a specific function or activity. As outlined below, these functions and activities involve the administration of justice and criminal law, civil, commercial and property law, community safety and regulatory laws, as well as operational functions associated with the machinery of government (for example, administration of employees).

The directorate undertakes the following functions and activities:

- **Policy advice and justice programs** – The directorate provides policy, legislation, and ministerial support and advice to portfolio Ministers, Cabinet and other agencies on justice and community safety matters. This includes establishing innovative justice and crime prevention programs (including the Restorative Justice Program) across Government and the community.
- **Legal services to Government** – The ACT Government Solicitor sits within the directorate's portfolio and provides legal advice and representation to ACT Government.
- **Legislative drafting and publishing services** – The Parliamentary Counsel's Office drafts and publishes ACT legislation and maintains the ACT Legislation Register.
- **Custodial and Corrective Services** – ACT Corrective Services is responsible for the safe and secure custody of detainees, the management of individuals on remand and offenders on community based corrections orders, and provision of advice and services to the ACT justice system. This area of the directorate holds a large amount of personal information, including sensitive information.
- **Emergency Services** – The Emergency Services Agency is responsible for supporting the ACT community in regard to emergency management. It incorporates the ACT Ambulance Service, ACT Fire and Rescue, ACT Rural Fire Service and ACT State Emergency Service.

The [Administrative Arrangements](#), which can be found on the ACT Legislation Register, determine the directorate's functions.

Annexure A provides a summary of the various business units within the directorate, their functions, and the types of personal information they are likely to hold.

The directorate complies with the following privacy legislation in undertaking its functions:

- *Information Privacy Act 2014* – regulates the handling of personal information by public sector agencies and contracted service providers.
- *Health Records (Privacy and Access) Act 1997* – provides for the privacy and integrity of, and access to, personal health information. All health records held by the directorate are protected and managed in accordance with this Act.

Note: The *Information Privacy Act 2014* does not apply to personal health information, which broadly refers to any information held by a health practitioner or that relates to the health of a person.

- *Workplace Privacy Act 2011* – regulates the collection and use of workplace surveillance information.

The directorate is also subject to the following legislation that may affect how it handles your personal information:

- *Privacy Act 1988 (Cth)*
- *Territory Records Act 2002*
- *Freedom of Information Act 2016*
- *Public Sector Management Act 1994*
- *Financial Management Act 1996*
- *Work Health and Safety Act 2011*
- *Corrections Management Act 2007*
- *Crimes (Sentencing Act) 2005*
- *Crimes (Sentence Administration) Act 2005*
- *Crimes Act 1900*
- *Human Rights Act 2004*
- *Government Procurement Act 2001*
- *Public Interest Disclosure Act 2012*
- *Victims of Crime Act 1994*
- *Emergencies Act 2004*
- *National Vocational Education and Training Regulator Act 2011 (Cth)*.

3. SCOPE

This policy applies to information gathered about members of the public.

This policy does not apply to the following areas within the JACS portfolio, which have their own privacy policies available at the links below:

- [Director of Public Prosecutions](#)
- [Human Rights Commission](#)
- [ACT Policing](#)
- [Public Trustee and Guardian](#)
- [ACT Legal Aid Commission](#)

4. REMAINING ANONYMOUS

Wherever possible when dealing with the directorate (for example, when calling to make an enquiry), you will have the option of remaining anonymous or using a pseudonym (a made-up name). This is a requirement under Schedule 1 (Territory Privacy Principles), TPP 2 of the *Information Privacy Act 2014*.

However, in some situations the directorate will need you to provide your name or other details in order to provide services or assistance to you, including if we are authorised or required by law to deal with an identified individual. If in doubt, please discuss the issue with the person with whom you are dealing.

If it is impractical or unlawful for us to deal with you without you providing identifying information, we will let you know why we need your personal information and what it will mean for you if the information is not collected.

5. COLLECTING PERSONAL INFORMATION

At all times, the directorate will try to only collect personal information where it is reasonably necessary for, or directly relates to, one or more of our functions. The directorate will not actively seek to collect personal information about you if we do not need it.

Normally, the directorate will only collect sensitive information (such as racial or ethnic origin or criminal record) with your consent and if it is reasonably necessary for an agency function. Sometimes; however, we may collect sensitive information without your consent, such as when it is required or authorised by a law or court order, or is reasonably necessary to prevent a threat to the life, health or safety of one or more individuals.

Sensitive information collected under law or a court order will only be used and disclosed in accordance with that law or order.

5.1 HOW DO WE COLLECT PERSONAL INFORMATION

The directorate only collects information about you by lawful means. The directorate collects personal information when:

- we are required or authorised by law or a court or tribunal order to collect the information
- you participate in community consultations, committees, forums, or make submissions to us, and you consent to our collection of your personal information
- you contact us to ask for information (but only if we need it in order to respond)
- you enter the Alexander Maconochie Centre as a visitor
- you join the ACT Emergency Services as a volunteer member
- you volunteer for a service, program or event managed by the directorate
- you are involved in an accident, incident or near miss related to directorate activities, resulting in the completion and submission of an incident/accident report that may include your personal information.
- you ask for access to information that the directorate holds about you or other information about the operation of our business
- in undertaking procurement processes in accordance with the *Government Procurement Act 2001*
- in undertaking recruitment processes in accordance with the *Public Sector Management Act 1994*
- you are employed by the directorate

Your personal information may be collected in a variety of lawful and fair ways. Methods of collection may include through paper or online forms, from correspondence sent to and from you, as well as over the telephone.

Normally, the directorate will collect information directly from you, unless it is unreasonable or impractical to do so. In certain circumstances, for example where it is required by law, we may also obtain information collected by Commonwealth, state or territory government bodies or other organisations. The directorate may also receive information from a third party where this is necessary to fulfil our legislative responsibilities (such as providing emergency services).

Personal information may also be collected from publicly available sources where it is reasonably necessary for, or directly related to, directorate functions. For example, we collect personal information from publicly available sources to enable us to engage with stakeholders who may be interested in providing input into directorate projects, programs, reviews, consultations or research.

5.2 TYPES OF PERSONAL INFORMATION COLLECTED

The personal information we collect and hold will vary depending on what we require to perform our functions. This may include:

- information about your identity (e.g. date of birth, country of birth, passport details, visa details and drivers licence)
- your name, address and contact details (e.g. phone, email and postal address)
- information about your personal circumstances and associations (e.g. age, gender, marital status and occupation)

- information about your financial affairs (e.g. payment details, bank account details, and information about business and financial interests)
- information about your employment (e.g. applications for employment, work history, referee comments and remuneration)
- information about your opinions (e.g. submissions on reform proposals and government policy)
- information about assistance provided to you under our assistance arrangements
- photographs, video and audio recordings.

Sensitive Information

Sensitive information is handled with additional protections under the *Information Privacy Act 2014*.

The directorate will generally only collect sensitive information about you with your consent and where the information is reasonably necessary to fulfil one or more of the directorate's functions. However, in exceptional circumstances, the directorate may collect sensitive information about you without your consent, such as when required by law or an order of a court or tribunal.

The directorate collects and holds sensitive information about the criminal records of its employees, as a standard ACT Public Service requirement. This information is used to assess an employee's suitability to hold their position.

The directorate also collects and holds sensitive information about the criminal records of volunteers to ensure their suitability to undertake a volunteer work within the directorate.

It also holds the following sensitive information where it relates to the management of a custodial facility or court proceeding:

- criminal record
- biometric information
- racial or ethnic origin
- religious beliefs.

The directorate does not routinely collect or hold other types of sensitive information, including:

- philosophical beliefs
- membership of a political association
- membership of a professional or trade association
- membership of a trade union (except for union representatives)
- sexual orientation and practices
- genetic information.

Further information on the types of personal information generally collected by directorate business units can be found in **Annexure A**.

5.3 NOTICE OF COLLECTION

When the directorate needs to collect personal information from you, we will take reasonable steps to notify you about¹:

- who we are and how you can contact us
- the circumstances in which we may collect, or have collected, your personal information
- the laws that require us to collect this information (if any)
- why we are collecting the information
- how you may be affected if we cannot collect the information we need
- the details of any agencies or entities with which we normally share personal information, including whether those recipients are located overseas, and in which countries
- the existence of this policy explaining how we handle your information, how you can access or request changes to your personal information, and how we deal with complaints about our information handling, and
- how you can access this policy.

We will aim to notify you about such matters either before we collect your personal information, at the time of collection or, otherwise, as soon afterwards as is practical.

5.4 COLLECTING INFORMATION THROUGH OUR WEBSITES

View the [ACT Government Web Privacy Policy](#).

5.5 SOCIAL NETWORKING SERVICES

If you communicate with the directorate using social networking services, like Facebook or Twitter, those services may also collect your personal information in accordance with their own privacy policies. The directorate has limited or no control over the ways in which your information might be used or disclosed by such services.

6. USE AND DISCLOSURE OF PERSONAL INFORMATION

The directorate uses and discloses personal information to allow the directorate to perform its functions effectively.

Common situations in which the directorate will disclose information are detailed below. Note, the directorate will only disclose your sensitive information for the purposes for which you gave it to us, directly related purposes where you would reasonably expect it to be disclosed, or if you agree.

6.1 REFERRING INFORMATION TO ANOTHER ACT GOVERNMENT DIRECTORATE OR AGENCY

The directorate will share information with other ACT agencies in situations where you would reasonably expect us to use the information for that purpose.

¹ Note: An exemption applies to forms and court documents managed by the ACT Courts and Tribunals.

- **Correspondent personal information** – if you write to us with a question, inquiry or request for assistance and we are not able to answer it fully or provide assistance, we may disclose your name, contact details and the nature of your question, inquiry or request for assistance to the ACT agency that is most able to assist you.
- **Cross agency programs** – if you participate in a program that is administered by or involves more than one ACT, Commonwealth or state government agency (such as Farm Fire Wise) we may disclose your name, contact details, and details about your participation in the program to other stakeholder agencies.
- **Integrated service delivery** – if your involvement with a service identifies related needs, we may share your name and contact details with other ACT Government agencies to promote integrated service delivery.
- **Consultation and survey records** – if you participate in meetings, policy consultations or make submissions or representations to us, we may disclose information about your name, occupation, professional or organisational associations and your views with respect to the issue, to other ACT agencies and stakeholders.
- **Complaints information** – if you complain about a JACS policy, decision or action, the personal information we share may include your contact details, use of appeal or review mechanisms, complaint and/or customer reference numbers with any other agency, how the action complained about has affected you, and any outcome you would like to obtain. This information may be disclosed to an external body (i.e. the ACT Ombudsman), to enable independent investigation of the complaint. [Refer to the JACS Complaints Management Policy for more information.](#)
- **Personnel records** – Personnel files are kept to maintain records about all aspects of employment including recruitment, employment history, payroll, leave, equal employment opportunity data, workplace relations, security clearances, performance, workplace health and safety, rehabilitation and compensation. These records are kept in relation to all permanent, contracted and temporary staff members/employees, including volunteers. Personal information is disclosed on a ‘need to know’ basis to Shared Services for the purposes of administering our payroll, and to travel providers under the whole of government travel arrangements.
- **FOI records** – The purpose of these records is to record all requests for information made to the directorate under the *Freedom of Information Act 2016*. Personal information on these records relate to the person who has made the FOI request, directorate staff, staff of other agencies, and any other person whose personal information is contained in the record to which FOI access has been sought. Depending on the information contained in the records, these may be released to the applicant, relevant ACT agencies and affected third parties.

6.2 DISCLOSURE TO THE MEDIA

The directorate will only provide the media with your personal information with your consent, where such information is already publicly available, or where a specific exception under the *Information Privacy Act 2014* applies (see below for further information on exceptions).

6.3 EXCEPTIONS

The directorate will not use your personal information for a secondary purpose or share your personal information with private sector organisations or anyone else without your consent, unless an exception applies.

Exceptions are available in a number of circumstances, including when:

- for personal information, the secondary purpose relates to the purpose for which we originally collected it and we believe you would reasonably expect us to use the information for that secondary purpose
- for sensitive personal information, the secondary purpose directly relates to the purpose for which we originally collected it and we believe you would reasonably expect us to use the information for that secondary purpose
- the use or sharing of information is legally required or authorised by a law, or court or tribunal order
- the collection is reasonably necessary for law enforcement related activities, such as the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of the law, intelligence gathering, surveillance involving public safety, or conduct of protective or custodial services.
- we reasonably believe that collection is necessary to lessen or prevent a serious threat to the life, health or safety of any individual, or to public health or safety
- we have reason to suspect unlawful activity, or misconduct of a serious nature, that relates to our functions and we reasonably believe collection of the information is necessary in order for us to take appropriate action
- we reasonably believe that use and/or disclosure is necessary to help locate a person who has been reported as missing.

If the directorate holds biometric information (such as fingerprints or photograph) or your biometric templates (digital representations of your distinct characteristics), we may provide this information to an enforcement body (like the Australian Federal Police or the Department of Immigration and Border Protection) provided that we comply with any guidelines made by the Information Privacy Commissioner.

The directorate may also disclose personal information to Commonwealth intelligence agencies where that disclosure is authorised by the head of the intelligence agency and the agency certifies that the collection of the personal information from the directorate is necessary for its functions.

6.4 SHARING INFORMATION WITH SERVICE PROVIDERS

The directorate will contract service providers to support it in carrying out specific functions. In some circumstances, it may be necessary for the directorate to share personal information with these service providers to enable them to perform their functions efficiently and effectively.

In such situations, we protect personal information by only entering into contracts with service providers who agree to comply with Territory requirements for the protection of personal information.

6.5 DISCLOSURE OF INFORMATION OVERSEAS

In some circumstances, the directorate may need to share or store information with overseas recipients.

The directorate currently has arrangements in place for the routine disclose of personal information overseas to:

- Allow analysis of that information by contracted service providers based in the United States of America. Web traffic information is disclosed to Google Analytics when you visit our websites. Google stores information across multiple countries.

If disclosure of personal information overseas is necessary, we will take reasonable steps before disclosing the information to ensure that the recipient treats the personal information with a similar standard of care as is required by the *Information Privacy Act 2014*.

In some cases, the information will already be sufficiently protected under the law governing the overseas recipient and you can access mechanisms to enforce these protections.

If it is practical and reasonable to do so, we will obtain your consent to overseas disclosure. However there may be situations where we are unable to do so (for example, where we share information as part of a law enforcement activity). In this situation, the directorate will take reasonable steps to ensure the overseas recipient complies with the requirements of the *Information Privacy Act*.

The directorate will ensure that this policy is updated to reflect any new arrangements it may enter that result in regular sharing of personal information with an overseas recipient or recipients.

7. QUALITY OF PERSONAL INFORMATION

The directorate is required to take reasonable steps to ensure that the personal information we collect and store is accurate, up to date and complete. To achieve this, we record information in a consistent format, and where necessary, confirm the accuracy of information we collect with you or via a third party (such as another ACT government directorate, on the condition that it is lawful under TPP 3.6) or publicly available source.

8. STORAGE AND SECURITY OF PERSONAL INFORMATION

The directorate is required to take reasonable steps to ensure that the personal information it holds is safe and secure. Every effort is taken to protect your personal information from:

- misuse, interference or loss
- unauthorised access, modification or disclosure.

The ACT Government Protective Security Policy Framework (ACT PSPF) requires all directorates to take appropriate measures to protect its people, information and assets, at home and overseas.

The directorate has implemented a number of policies and procedures to meet the requirements under the ACT PSPF that help to ensure your personal information is protected. These include:

- information being accessible on a need-to-know basis in the course of one's duties
- ICT firewalls
- secure logins with password protections
- access to directorate premises is restricted based on the requirements of the role being performed
- audit logging of ICT activity; and secure storage of paper based files.

The *Territory Records Act 2002* sets out the responsibilities of government agencies for records management and seeks to ensure that appropriate records of the activities of the ACT Government are made, managed and, if appropriate, preserved. The directorate complies with the guidance issued by the Territory Records Office regarding the protection of its records, information and data. The directorate securely destroys records once they are no longer required for agency activities or functions in accordance with the requirements of the *Territory Records Act 2002* and the applicable Record Disposal Schedule. Where possible, personal information will be de-identified once it is no longer required for the purpose for which it was collected.

9. ACCESSING YOUR PERSONAL INFORMATION

In accordance with the *Information Privacy Act 2014* (TPP 12), you have the right to ask for access to personal information that the directorate holds about you.

Requests to access your personal information should be submitted to:

FOI and Records/Information Manager
Ph: (02) 6207 2167
Email: JACSFOI@act.gov.au
Post: GPO Box 158, Canberra ACT 2601

If you contact us to request access to your personal information, we must provide you with access in the way you request if it is reasonable and practical to do so. The directorate may refuse your access to the document if an exception in TPP 12.2 applies or if it is not reasonable or practicable to give you access in the way you request.

The directorate must respond to your request in writing within 30 days. If we refuse your request, we must tell you why we are unable to provide you with access to that information.

We will not charge you any fees for making the request or providing you with access unless a fee has been specifically determined for the information in question (such as court records).

You also have the right under the *Freedom of Information Act 2016* to request access to any of the documents that we might hold. Further information on the directorate's freedom of information arrangements, including how you can apply for access, can be found on the [JACS directorate website](#).

10. CORRECTING YOUR PERSONAL INFORMATION

You also have the right to request that we correct any of your personal information that we might hold, if you believe it is incomplete, incorrect, out of date, or misleading (TPP 13).

Requests for the correction of your personal information can be submitted to:

FOI and Records/Information Manager
Ph: (02) 6207 2167
Email: JACSF0I@act.gov.au
Post: GPO Box 158, Canberra ACT 2601

There may be reasons why we refuse to correct your personal information, for example, if we are required or authorised by law not to correct the information. If we refuse to correct the information, we will give you written notice of why we have refused to correct your information within 30 days.

If we cannot correct your personal information, you may request that we attach a statement to the record indicating that you believe the information held is incorrect, inaccurate, incomplete, irrelevant, out of date or misleading. Where this is not possible, you will be advised.

11. HOW TO MAKE A COMPLAINT

The directorate's [Complaint Management Policy](#) is available on the JACS website.

Complaints about the directorate's handling of your personal information should be made in writing to the contact details set out in section 11.1 below. We are also able to assist you to lodge your complaint if required. Please also contact us if you would like to request a hardcopy of this policy or the directorate's Complaint Management Policy.

We will consider your complaint to work out how we can resolve your issue satisfactorily. We may contact you for further information. We will endeavour to acknowledge receipt of your complaint within five working days and respond to the complaint within 21 days.

If you are not satisfied with our response, you may ask for a review by a more senior officer or you can make a formal privacy complaint to the Information Privacy Commissioner under section 34 of the *Information Privacy Act*.

The Information Privacy Commissioner is an independent body that can assess your complaint and make a determination as to whether our actions caused an interference with your privacy. The functions of the Information Privacy Commissioner for the ACT are currently performed by the Office of the Australian Information Commissioner (OAIC). If your complaint is upheld by the OAIC, you may be able to seek a remedy in the ACT Magistrates Court. Information on how to make a complaint to the OAIC is available at www.oaic.gov.au.

11.1 HOW TO CONTACT US

You can contact us by:

Email: JACSEnquiries@act.gov.au or JACSComplaints@act.gov.au
Telephone: (02) 6207 2167
Post: GPO Box 158
Canberra ACT 2601

Assisted Contact

National Relay Service:

- TTY users phone – 13 36 77, then ask for 13 22 81
- Speak and listen users – 1300 55 727, then ask for 13 22 81
- Internet relay users – connect to the National Relay Service and ask for 13 22 81

Translating and Interpreting Service:

- Call 13 14 50

12. COMPLIANCE WITH THIS POLICY

Business units may be audited in relation to their compliance with this policy.

13. REVIEW

This policy will be reviewed on an ongoing basis, with a formal review to be undertaken at least every two years.

DOCUMENT PROPERTIES

APPROVAL

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AMENDMENT HISTORY

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V1.2	2016	Review	Lauren Callow Alison Kemp Alex Jorgensen-Hull
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DETAILS

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ATTACHMENT A – EMAIL SUBSCRIBER LISTS

The directorate does not currently manage any subscriber email lists.