



**Australian Government**  
**Registered Organisations Commission**



**POLICY**

**PP 006 / 26 SEPTEMBER 2019**

# ROC Privacy Policy



## Contents

<b>Part 1:</b> About this policy.....	3
<b>Part 2:</b> Our personal information handling practices .....	6
<b>Part 3:</b> Reports of suspected misconduct, compliance and investigations .....	14
<b>Part 4:</b> Registration and other statutory functions .....	16
<b>Part 5:</b> Consultation with stakeholders.....	18
<b>Part 6:</b> Handling of complaints made about our conduct.....	19
<b>Part 7:</b> Engagement of staff, contractors and service providers .....	20

### **Relevant Legislation or materials**

*Australian Government Guidelines on the Recognition of Sex and Gender*

*Fair Work (Registered Organisations) Act 2009*

*Fair Work (Registered Organisations) Regulations 2009*

*Freedom of Information Act 1982*

*Legal Services Directions 2017*

*Privacy Act 1988*

*Privacy (Australian Government Agencies – Governance) APP Code 2017*

*Public Governance, Performance and Accountability Act 2013*

*Public Service Act 1999*



## Part 1: About this policy

### Purpose and Scope

The purpose of this policy is to provide information about:

- the personal information that the Registered Organisations Commission (**ROC**) collects
- how we handle that information, including how we use and disclose it
- how you can access your personal information or make a complaint about the handling of the information.

The policy sets out how we comply with the *Privacy Act 1988* ([Privacy Act](#)) and the *Privacy (Australian Government Agencies – Governance) APP Code 2017* ([Privacy Code](#)).

The ROC is an independent government body which, together with the Office of the Fair Work Ombudsman (**OFWO**), forms a single entity for the purposes of the *Public Governance, Performance and Accountability Act 2013* (**PGPA Act**), known as the Fair Work Ombudsman and Registered Organisations Commission Entity (**FWOROCE**). The ROC is responsible separately from OFWO in respect of its compliance with the Privacy Act.

We are bound by the 13 Australian Privacy Principles (**APPs**), which regulate how Australian Government agencies may collect, store, use and disclose personal information, and how individuals may access and correct personal information held about them.

‘Personal information’ is defined in the Privacy Act as:

information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- a) whether the information or opinion is true or not; and
- b) whether the information or opinion is recorded in a material form or not.

The personal information we collect includes:

- contact details (such as name, address, telephone numbers and email addresses)
- other biographical data (including title, gender or images)
- financial records and information (such as financial reports, details of loans, grants and donations, bank records, transactional information, and personal financial interest disclosures)
- employment information (including roles held, remuneration, and financial and other benefits)
- occupational and employment histories



- education and qualifications
- professional memberships, accreditation and registrations.

‘Sensitive information’ is a class of personal information which requires greater protection under the Privacy Act. ‘Sensitive information’ is defined in the Privacy Act as:

- a) information or an opinion about an individual’s:
  - i. racial or ethnic origin; or
  - ii. political opinions; or
  - iii. membership of a political association; or
  - iv. religious beliefs or affiliations; or
  - v. philosophical beliefs; or
  - vi. membership of a professional or trade association; or
  - vii. membership of a trade union; or
  - viii. sexual orientation or practices; or
  - ix. criminal record;that is also personal information; or
- b) health information about an individual; or
- c) genetic information about an individual that is not otherwise health information; or
- d) biometric information that is to be used for the purpose of automated biometric verification or biometric identification; or
- e) biometric templates.

Sensitive information that we collect includes information about:

- membership of a professional or trade association
- membership of a trade union
- criminal record.



## Outline of this policy

We only collect personal information using lawful and fair means.

[Part 2](#) of this policy explains our general information handling practices, including how to contact us if you want to:

- seek access to or correct your personal information
- make a complaint about our handling of personal information.

[Part 3](#) to [Part 7](#) of this policy contain more information about our information handling practices in relation to the following functions of ROC:

- our handling of reports of suspected misconduct, compliance and investigation activities
- our registration and other statutory functions
- our consultation with stakeholders
- our handling of complaints made about our conduct
- our engagement of staff, contractors and service providers.



## Part 2: Our personal information handling practices

### Purposes for collection

We only collect personal information if we are required or authorised by law to do so or if it is reasonably necessary for, or directly related to, our functions.

The ROC's function is to assist the Registered Organisations Commissioner in the performance of the Commissioner's functions under the *Fair Work (Registered Organisations) Act 2009 (RO Act)*. Those functions include:

- promoting efficient management and high standards of accountability of organisations and their office holders to their members, and compliance with financial reporting and accountability requirements of the RO Act
- monitoring acts and practices to ensure that organisations comply with the provisions of the RO Act providing for the democratic functioning and control of organisations
- such other functions as are conferred on the Commissioner by the RO Act or by another Act.

We collect personal information to:

- provide advice, assistance, education and information
- handle reports of suspected misconduct lodged with us, monitor compliance with the laws we administer, and identify, investigate and take enforcement action in relation to contraventions of those laws
- carry out our statutory obligations (such as receiving and assessing statutory lodgements, administering our registration functions, making administrative decisions, and granting relief from regulatory requirements)
- consult and communicate with stakeholders, the public, and the media
- cooperate with other agencies, including law enforcement agencies
- deal with and assess complaints about our conduct
- enable users to access and subscribe to our online services
- manage our staff, contractors and service providers.

### How we collect information

We collect personal information from individuals or their authorised representatives, including when:

- you contact us by phone, email or through our website



- you are making an application (e.g. to be registered as an auditor, applying to access documents or seeking the making of an administrative decision)
- you request assistance from us
- you register for email updates or use subscription services
- we conduct compliance or investigation activities.

We may collect personal information about individuals from third parties in the course of:

- receiving statutory lodgements, including from registered organisations
- preparing or receiving reports of suspected misconduct
- carrying out our compliance or investigation activities
- carrying out our registration and other regulatory functions
- receiving other documents (such as documents that contain personal information about individuals received in the course of a court process)
- managing our staff and contractors.

The APPs place a general obligation on Australian Government agencies to inform individuals when they collect personal information about them from third parties. We only collect personal information from third parties where:

- the individual consents
- we are required or authorised to collect the personal information from third parties by law
- it would not be reasonable or practicable for the individual to know that we have collected their personal information (because, for example, it could jeopardise an investigation of a report of suspected misconduct).

As well as requesting the voluntary production of information, we are also authorised under the RO Act to require persons and organisations to produce information, documents and other records that may contain your personal information (for example, membership records) to the ROC or a third party (such as a member).

### **Dealing with us anonymously**

The APPs require Australian Government agencies to allow individuals the option of not identifying themselves or using a pseudonym in their dealings with the agency when it is lawful and practicable to do so. An example of this could be, if an individual wanted to make an anonymous complaint.



We generally provide individuals with the option of not identifying themselves or using a pseudonym. However, on many occasions we will not be able to do this, for example:

- where we need an individual's name and position if you are lodging a declaration or other information on behalf of a registered organisation in support of a statutory lodgement
- when you make an application to us (such as for registration as a registered auditor or exemption from a regulatory requirement).

### **Consequences of not providing personal information**

If we ask an individual voluntarily to provide personal information to us, usually there is no penalty if they do not do so. However, there may be other consequences, for example:

- the individual may not make the most of services most relevant to their circumstances
- we may not be able to process an application, for example for an exemption or registration
- we may not be able to investigate properly or resolve a report on suspected misconduct made by the individual
- we may not be able to provide feedback to the individual
- we may issue a compulsory notice for the information.

We will tell you if we need to collect your name or any other personal information to help you further.

If we compel an individual to provide personal information to us (for example under s 335 of the RO Act), or if they are required to provide personal information to us in compliance with another statutory obligation, they may commit an offence or be subject to a penalty if they fail to provide all or any of the personal information to us. If we issue a compulsory notice to an individual, we will inform them of the offences and penalties for a failure to comply with that notice.

### **Use of personal information**

We only use personal information for the purpose for which it was collected, unless one of the following applies:

- we obtain the individual's consent to use the personal information for a different purpose
- the individual would reasonably expect us to use the personal information for a different but related purpose (and if the personal information is sensitive information, that the purpose is directly related to the collection purpose)



- we are required or authorised by law to use the information (for example, by a court order or subpoena)
- we reasonably believe that the use is necessary for our enforcement activities (such as to gather intelligence or take enforcement action).

If we collect personal information in the course of carrying out one of our functions (for example, receiving a report of suspected misconduct or when carrying out an investigation), and the information is relevant to another of our regulatory functions (for example, an application for registration or for another investigation that we are conducting), we will, in general, use that personal information for that other purpose.

### **Disclosure to other bodies or persons**

The types of bodies or persons to which we usually disclose personal information collected by us include the following:

- lawyers and other service providers who we engage to assist us with our functions
- other law enforcement agencies (such as the Australian Federal Police)
- other government agencies (such as the Fair Work Commission, the Australian Electoral Commission and the Australian Taxation Office)
- OFWO in respect of services provided to the ROC by OFWO in accordance with administrative arrangements to enable operations and reporting under the PGPA Act
- courts and tribunals
- the public, if the personal information is required to be published in a register that can be searched by the public, in the Government gazette or is published on our website
- parliamentary committees exercising their oversight functions
- applicants under the *Freedom of Information Act 1982 (FOI Act)*
- referees and former employers to verify qualifications and experience when assessing certain applications.

We only disclose personal information for the purpose for which it was collected, or for another purpose, if one of the following applies:

- the individual has consented to the disclosure
- the individual would reasonably expect us to disclose the personal information because it relates to the primary purpose for which it was collected (or if it is sensitive information, that it is directly related to the collection purpose)
- we are required or authorised by law to disclose



- we reasonably believe the disclosure is necessary for our enforcement activities, or for the enforcement activities of other Commonwealth, state or territory agencies.

Except for when we disclose personal information by publication to an accessible register or communication service (such as when we publish information to our website), we will not disclose your information outside of Australia without your express or implied consent, or otherwise as permitted by APP 8 – Cross-border disclosure of personal information.

## Storage and security of information

We store personal information in electronic systems and paper files.

We take steps to protect the personal information we hold against loss, unauthorised access, use, modification or disclosure, and against other misuse. These steps include password protection and access privileges for accessing our IT systems, securing paper files in locked cabinets, and physical access restrictions.

Where we store information in electronic databases or in hosted cloud based storage systems, those services are hosted in Australia.

The service providers used by us to host personal information include McGirr Information Technology Pty Limited (**McGirr**), FWOROCE and Commonwealth shared IT services. Those entities comply with the obligations of the Privacy Act. You can access McGirr's privacy policy [here](#). Systems administrators engaged by our service providers may be able to access hosted information, subject to strict security controls.

If a data breach occurs and personal information that we hold about you is subject to unauthorised loss, use or disclosure, we will respond in accordance with the Privacy Act.

The Privacy Act requires us to notify you, the Office of the Australian Information Commissioner and any other relevant agencies of any unauthorised access or disclosure of your personal information which would be likely to result in serious harm to you or any affected individuals.

If we reasonably suspect that there has been such unauthorised access or disclosure, we will carry out an expeditious assessment to determine if it is an 'eligible data breach' and take all reasonable steps to contain the unauthorised access or disclosure. We will complete our review within 30 days of becoming aware of the potential personal information breach.

Note: See 26WE of the Privacy Act for the definition of an 'eligible data breach'.

When no longer required, we destroy personal information in accordance with FWOROCE's Record Disposal Authority as approved by the National Archives of Australia or as part of normal administrative practice.



## Visiting our website or social media pages

When you visit our website, anonymous information about your visit is recorded. The information recorded only tells us how you used the site, which may include your server address, the operating system used (for example, Windows, Mac), the top-level domain name (for example, .com, .gov, .au), the date and time of your visit, the pages accessed, the information downloaded and the type of internet browser you used (for example, Internet Explorer).

This process does not record any personal data about individuals.

We may use cookies on our website to help us carry out online surveys. Cookies are small pieces of information exchanged between your web browser and a website server. Where we use an external survey provider, that provider could use cookies on their website. If this is the case, you will be directed to information on the provider's website explaining their use of cookies.

The information collected is used for system administration purposes and lets the ROC analyse statistics on how the website is used. This information can assist in improving our online products and services.

We do not identify users or their browsing activities except in the event of an investigation where a law enforcement agency may be entitled to inspect the service provider's logs.

While we work to ensure a secure web environment, including encryption of messages, there are risks that are inherent with providing information via the internet.

We may use social networking services such as YouTube, Twitter and Facebook to communicate with the public. When you interact with us using these services we may collect your personal information, but we only use it to help us communicate with you and the public. When you communicate with us through our social networking services, the social network provider and its partners may collect and hold your personal information overseas. You should consult their privacy policy for further information.

## Subscription services and email contact

We maintain contacts lists, which include contact information about individuals and organisations. We may use these contacts lists to distribute information, monitor or assess client satisfaction with services, or for research.

If you subscribe to an email list or subscription service in relation to our activities, we will:

- record your email address
- only use the email address for the reasons that you provided it and in respect of the type of information that you have requested to receive from us
- not add the email address to a mailing list unless you request it



- not give the email address to any third party unless you give us permission or the disclosure is authorised by law.

Our subscription service enables you to personalise your selections as to the categories of information which you would like receive from us. We collect information about your preferences only to enable us to send you regular updates on our activities relevant to the areas selected by you and to administer these lists.

When no longer required, personal information in contacts lists is destroyed in a secure manner or deleted.

### Quality, access and correction

We will take reasonable steps to ensure that the personal information we hold about you is accurate, up to date, relevant and complete, including when it is used or disclosed.

The Privacy Act allows you to seek access to your personal information and request that we correct your personal information where that information is inaccurate, out of date, incomplete, irrelevant or misleading.

If your request relates to amendment of information about your sex and/or gender, we will act consistently with the [Australian Government Guidelines on the Recognition of Sex and Gender](#).

There are no fees for requesting access to your personal information.

The FOI Act also sets out the process by which you can access, change or annotate documents we hold that contain your personal information. We will handle FOI requests in accordance with our [Access to Information Policy](#), which is available at [www.roc.gov.au](http://www.roc.gov.au).

We are permitted to refuse your request to access or correct your personal information where there are valid reasons to do so under the Privacy Act, the FOI Act or other applicable law. If we refuse to provide access or correct personal information about you, we will notify you of our reasons and advise you of how you may seek a review. Generally, your application for access will be dealt with and processed within 30 days from the date that we receive it (unless the FOI Act extends the timeframe to allow for consultations and submissions).

You can obtain further information about how to request access or a correction to your personal information by emailing us at [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au) or writing to us:

Privacy Officer  
Registered Organisations Commission  
GPO Box 2983  
Melbourne VIC 3001



## Complaints

If you believe that we have breached the APPs, you can submit a complaint by emailing us at [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au) or writing to us:

Privacy Officer  
Registered Organisations Commission  
GPO Box 2983  
Melbourne VIC 3001

We will make all attempts to respond promptly to and deal with your complaint. If we decide that a complaint should be investigated further, it will usually be handled by a more senior officer than the officer whose actions you are complaining about.

If you are not satisfied with our response, you can complain to the Office of the Australian Information Commissioner. For more information, visit [www.oaic.gov.au](http://www.oaic.gov.au) or phone 1300 363 992. If you are not satisfied with our complaint handling process in response to your privacy complaint, you have the option of contacting the [Commonwealth Ombudsman](#).



## Part 3: Reports of suspected misconduct, compliance and investigations

### Purpose

We collect personal information to enable us to:

- receive and investigate reports of misconduct about registered organisations and individuals we regulate
- monitor compliance with the laws we administer
- investigate possible contraventions of the laws we administer
- take enforcement action, including bringing court proceedings
- refer suspected contraventions of the law to other Commonwealth and State Agencies.

### Collection

We collect personal information from individuals including:

- individuals who report suspected misconduct
- potential witnesses
- individuals who are the subject of reports of suspected misconduct, or our compliance or investigation activities.

We may also collect personal information from publicly available sources to enable us to carry out our regulatory functions.

The personal information we collect from these individuals may include information about them. However, it may often also include personal information about other individuals. For example, a report of suspected misconduct usually contains personal information about the individual who is the subject of the report.

Where we have collected information about individuals from third parties, we will often be exempt from having to inform the individuals because it would not be reasonable in the circumstances. For example, if the individual is the subject of an investigation, informing them may prejudice the investigation.

Information may be provided to us voluntarily. Individuals may also be required to provide information to us under the RO Act. For example, if we serve a notice to produce or attend for questioning. If we require an individual to provide personal information to us we will inform the individual of the specific law that authorises or requires the collection, and any rights that individual may have (such as in respect to self-incrimination).



## Use

We use personal information for the purposes for which it was collected. We may also use the information for other purposes including:

- assessing future reports of suspected misconduct
- carrying out further compliance or investigation activity
- reviewing and determining regulatory policy
- monitoring compliance with the ROC's policies.

## Disclosure

The types of bodies or persons to which we usually disclose personal information collected for the purpose of handling reports of suspected misconduct and for our compliance and investigation activities includes:

- lawyers and other service providers who we engage to assist us in carrying out our functions
- courts and tribunals
- other law enforcement agencies (such as the Australian Federal Police)
- other government agencies (such as the Fair Work Commission and Australian Taxation Office)
- parliamentary committees exercising their oversight functions.



## Part 4: Registration and other statutory functions

### Purpose

Our functions include administering a registration regime, and maintaining registers, documents and records, some of which can be inspected by the public, and some of which can be inspected by members of registered organisations.

These functions include:

- registering, and maintaining a register of, auditors of registered organisations
- approving training providers and training packages in respect of training in relation to financial duties of officers.

We are also required to exercise a number of statutory powers which includes:

- receiving and assessing applications lodged by registered organisations, their members, and other individuals and entities
- making administrative decisions
- granting relief to organisations and persons from complying with some of the requirements imposed on them by law.

We collect personal information to assist us in carrying out these functions.

### Collection

The law requires that bodies and persons who wish to be registered or approved by us must provide us with certain information. We collect much of this information through completed forms which are lodged with us. Applicants for registration or approval may provide additional information to us voluntarily.

Bodies and persons requesting that we exercise our statutory powers provide information, which may include personal information, to support their applications.

The information provided to us may also contain personal information about other individuals (for example applications seeking exemption from approved financial training will contain personal information about the organisation's officers). We will often be exempt from the requirement to collect personal information directly from the individual because they have consented to our collection of their information from another party—for example, by authorising the organisation to provide us with information about their role and qualifications as an officer.

### Use

We use personal information for the purpose for which it was collected. We may also use the information for other purposes as explained above in [Part 2](#). Examples of some of the other purposes for which we may use this personal information include:



- assessing future reports of suspected misconduct
- future compliance or investigation activity
- reviewing and determining policy.

## Disclosure

The law authorises or requires us to make certain information available to the public, or to members of organisations, including personal information collected in the course of our registration and approvals activities or in respect of certain applications made by bodies and individuals.

Subject to any confidentiality orders, we also publish administrative decisions made by us in keeping with our commitment to transparency and accountability.

We do this by:

- maintaining records, registers and lists of information that can be inspected by the public or members of organisations
- publishing material in the Government gazette
- making it available for inspection on request or application
- making it available on our website.

Before information is published to our website, staff review the material and may, where appropriate, redact material to remove personal and/or sensitive information that is not required to be collected by us.

Administrative decisions that we make may also be re-published on other websites and databases such as the Australian Legal Information Institute (AustLII) website. Information about AustLII's privacy practices is available at [www.austlii.edu.au/austlii/privacy.html](http://www.austlii.edu.au/austlii/privacy.html).

We may disclose other personal information to other bodies or persons as explained in [Part 2](#) above.



## Part 5: Consultation with stakeholders

### Purpose

We regularly consult with individuals, organisations, peak industry bodies and other government entities to determine policy and to prepare education materials.

We collect personal information about these individuals in the course of our consultation activities. This information may include contact details and personal information relating to the conduct of their regulated activities.

### Collection

We receive information from bodies and persons who are affected by or are interested in the laws that we administer. We may receive this information in the form of submissions in response to consultation or discussion papers we have issued. We may also receive information through less formal processes, such as meetings.

This information may contain personal information about the individual giving us the information. It may also contain personal information about other individuals. We may not notify these individuals because it would not be reasonable or practicable in the circumstances.

### Use

We use personal information for the purpose of reviewing and determining policy and to prepare education materials. We may also use the information for other purposes as explained in [Part 2](#) above.

### Disclosure

We may publish the results of our consultations (for example, by publishing reports or summaries). We will not publish personal information collected during consultation without obtaining permission from the individuals.

We may disclose other personal information to other bodies or persons as explained in [Part 2](#) above.



## Part 6: Handling of complaints made about our conduct

### Purpose

We collect personal information for the purposes of handling complaints about our conduct.

### Collection

The complaints will usually contain personal information about the individual who lodged the complaint. It may also contain personal information about other persons.

### Use

We use personal information for the purpose of handling the complaint. We may also use the information for other purposes as explained in [Part 2](#) above.

### Disclosure

We would usually disclose the name of the complainant and the details of the complaint to our staff if they are the subject of the complaint, as we consider the complainant would expect us to do this. However, we will not provide personal information to our staff if the complainant tells us that they do not want their personal information disclosed.

If the complainant asks us not to reveal information, we may not be able to investigate the complaint if we are unable to give our staff sufficient information to be able to respond to the complaint.

We may also disclose personal information to other bodies or persons as explained in [Part 2](#) above.



## Part 7: Engagement of staff, contractors and service providers

### Purpose

We collect personal information for the purposes of:

- assessing your suitability for employment or engagement
- engaging, managing and supporting your employment, contract or engagement
- managing conflicts of interest
- conducting professional standards investigations and investigations into suspected misconduct by employees, contractors and service providers.

We collect sensitive information from you to ensure that we meet our obligations under the *Public Service Act 1999 (PS Act)* and other policies and guidelines relating to equal opportunity and diversity and for the security of individuals.

Finance and human resources functions for the ROC are provided by and will be undertaken through the OFWO. Personal information relating to engagements of staff, contractors and service providers may be collected, used and disclosed by the OFWO and/or the ROC.

### Collection

Generally, we collect information directly from you or your authorised representatives. At times, we may also collect personal information from third parties including:

- the OFWO
- past and present employers and referees
- other Australian, state or territory government entities in relation to any previous engagement including any agency which has investigated any suspected breaches of law or Australian Government policy
- service providers used during any assessment process and other third parties relevant to assessing and monitoring your suitability for engagement.

### Use

We use your personal information for the purposes for which it was collected. We may also use your personal information to investigate a suspected breach of the law.



## Disclosure

We may disclose your personal information for the purposes for which we have collected the information, which may include disclosure to the agencies and bodies from whom we may collect information referred to above.

Where we are required or authorised by law, we may disclose your personal information. For example, we may disclose your personal information to:

- an Australian court or tribunal
- a Fair Work Inspector or a permit holder, such as a union official, that may be conducting an investigation into a suspected contravention of the law under the *Fair Work Act 2009* (Cth)
- the Australian Public Service Commission so that it can fulfil its functions under the PS Act, such as maintaining the records of the Australian Public Service Employment Database (see s41(2)(c)), or providing reports about the Australian Public Service to the Parliament of Australia under s44
- law enforcement agencies to investigate any suspected breaches of law.