

# Privacy Policy

Version 5.0

Last updated 9 September 2019

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## About this policy

This is a policy about the handling of personal information by the Ombudsman. It applies to both the Commonwealth and ACT Ombudsman. The purpose of this policy is to give you a better understanding of our personal information handling practices and to enhance the transparency of the Ombudsman's operations. It gives effect to the Australian Privacy Principles (**APP**) contained in Schedule 1 of the [Privacy Act 1988](#).

## Outline of this Policy

This policy is separated in three parts:

### Part A – Personal Information Management

This part provides background on the functions/activities of the Ombudsman and explains in general terms:

- The kinds of personal information collected by us;
- How this information is collected; and
- How your personal information is held.

It will explain how you can:

- Ask to see your personal information we hold you can ask to have details of your personal information corrected; and

How you can complain to our Office, if you believe that your personal information has been mishandled or there has been a breach of your privacy by us.

### Part B – Records

This part lists specific kinds of Ombudsman records on which personal information is held.

The collection, use, disclosure and storage of your personal information can be dependent on the relevant function within the Ombudsman's Office.

It explains in more detail than Part A, the management of personal information by the specific Ombudsman functions and activities:

- Outlines what kinds of personal information are typically collected including the purpose for which this information is collected, held, used and disclosed.

### Part C – Online

This part explains the Ombudsman's personal information handling practices when a person visits the Ombudsman website.

## Part A – Personal Information Management

### Our obligations under the Privacy Act

The Commonwealth Ombudsman must comply with the Australian Privacy Principles (**APP**) contained in Schedule 1 of the [Privacy Act 1988](#) (**Privacy Act**). The APP's regulate how agencies may collect, hold, use or disclose personal information. It also regulates how individuals may access and correct personal information held by agencies about them. In this privacy policy *personal information* has the same meaning as defined by section 6 of the Privacy Act:

*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.*

In this policy '*sensitive information*' has the same meaning as defined by section 6 of the Privacy Act:

- (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 preferences 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.'*

**The Commonwealth Ombudsman also has mandatory obligations to notify affected individuals and the Information Commissioner of certain data breaches.**

### Background: functions and activities of the Ombudsman

Our strategic vision is for all administrative action taken by Australian and ACT Government agencies (including related service providers) to be fair and accountable. Our Office influences the administration of agencies by investigating their decisions to ensure people have been treated fairly. We also have oversight of agencies use of selected intrusive and coercive powers (provided for by various enactments), to ensure their compliance. We encourage agencies to have their own accessible, effective and targeted complaint handling services to instil good internal practices.

The Ombudsman investigates in private, and staff are obliged to keep confidential information obtained in connection with their work. However in certain circumstances the Ombudsman may publicise matters related to the work of the Office. Most commonly this occurs where the Ombudsman considers that it is in the public interest to publish a report relating to the outcome of an investigation.

Currently the Commonwealth Ombudsman is also the ACT Ombudsman. It is the policy of the Ombudsman that in performing his functions as the ACT Ombudsman he or she will comply with the APPs contained in the Privacy Act. Unless otherwise indicated, reference to the ‘Ombudsman’ in this policy generally means a reference to both the Commonwealth and ACT Ombudsman.

Depending on the function being performed by the Commonwealth Ombudsman he or she may also be referred to as the Ombudsman relevant to the industry, such as the **Immigration Ombudsman**, or **Law Enforcement Ombudsman**.

## Functions

The **Commonwealth Ombudsman** is a statutory office holder with a number of functions, including:

### Investigation of complaints

Under the [Ombudsman Act 1976 \(Cth\)](#), the Ombudsman can investigate administrative actions of Australian Government departments and administrative agencies, either on receipt of a complaint or on the Ombudsman’s own motion, he can also investigate particular complaints made in relation to:

- The Australian Defence Force, including receiving complaints in relation to reportable conduct. Such as serious abuse which may include sexual abuse, serious physical assault or serious workplace discrimination or harassment (as the **Defence Force Ombudsman**).
- Australia Post and private postal operators (as the **Postal Industry Ombudsman**).
- Private registered education providers to overseas students (as the **Overseas Students Ombudsman**).
- Private health insurance arrangements and matters related to private health insurance incentives (as the **Private Health Insurance Ombudsman**).
- Delivery of education/training under VET Student Loans and VET FEE-HELP programs (as the **VET Student Loans Ombudsman**).
- Public interest disclosures made under the [Public Interest Disclosure Act 2013](#).
- The [Ombudsman Act 1989 \(ACT\)](#), in relation to administrative actions by the ACT Government directorates and administrative agencies, including actions under the [Freedom of Information Act 1989 \(ACT\)](#), either on receipt of a complaint or on the Ombudsman’s own motion.

### Inspections

- Inspection of law enforcement agency records are undertaken to ensure compliance with relevant, federal statutory requirements. These inspections relate to telephone interception, electronic surveillance and the use of similar powers. Our Office also monitors the Australian Federal Police's management of professional standards issued under Part V of the [Australian Federal Police Act 1979](#).
- The **ACT Ombudsman** is a statutory office with a number of functions, including: inspection of law enforcement agency records relating to controlled operations, surveillance devices and assumed identities to ensure compliance with relevant ACT statutory requirements.

### **Reporting**

- Inspection of immigration detention centres and reporting on persons held in immigration detention for over two years, under Part 8C of the [Migration Act 1958 \(Cth\)](#).
- Reporting on and disseminating information about private health insurance and the rights/obligations of privately insured people (as the **Private Health Insurance Ombudsman**).
- Reporting on providers delivering education/training under VET Student Loans and VET FEE-HELP programs.

### **Monitoring**

- Monitoring the performance of functions in relation to the [Public Interest Disclosure Act 2012 \(ACT\)](#).
- Monitoring of records relating to the ACT child sex offenders register.

### **Information access**

- The Commonwealth Ombudsman receives Freedom of Information requests under the [Freedom of Information Act 1982 \(Cth\)](#)
- The ACT Ombudsman receives Freedom of Information requests under the [Freedom of Information Act 1989 \(ACT\)](#).

## **What kinds of personal information does the Ombudsman collect and hold**

In accordance with the APP's we collect personal information to enable us to carry out the Ombudsman's functions and activities (see [Background](#)). We collect and hold personal information relating to a wide range of people. These include complainants, persons held in immigration detention, prisoners held in the ACT, Ombudsman staff, Australian Government agency staff, ACT Government agency staff, staff of State or International Ombudsmen offices and foreign government organisations, staff of private registered providers of education to overseas students, private postal operators, staff or representatives of private health insurers and brokers, and health care providers, individuals who provide services to the Ombudsman as individuals or via organisations, and other people who contact or approach the Ombudsman.

In general the kind of personal information we collect about you may include your name, dates of birth, electronic (email), postal, street addresses, telephone number, occupation, and details of your

complaint. In relation to our Private Health Insurance Ombudsman functions we may also collect financial information such as bank account details.

You may complain to us anonymously or by adopting a pseudonym. However, if you do so it may be difficult or impossible for us to investigate your complaint.

**Example:** if your complaint relates to an agency's actions in handling a claim you have made for a benefit, then we would not be able to investigate those particular actions without you giving us your name and any relevant reference number. We will tell you if we cannot investigate your complaint because you have not supplied sufficient identifying information.

## How the Ombudsman collects personal information

We collect personal information primarily from the individual to whom the information relates or their authorised representative.

### *When will we collect your sensitive personal information*

We will only collect your sensitive information if:

- You agree to us collecting it **and** it is reasonably necessary for, or directly related to one of our functions or activities (see [Background](#)); **or**
- It is required or authorised by law or an order of a court of tribunal; **or**

**Examples:** the *Ombudsman Act 1976* allows us to obtain relevant personal information, which may include sensitive information, as part of an investigation; the *Migration Act 1958* requires the Secretary of the Immigration Department to give to us a report relating to the circumstances of a person's detention where a person has been in detention for more than two years; the *Ombudsman Act 1976* allows us to collect information relevant to a complaint about a private health insurance arrangement which may include sensitive information about health, health services, or claims.

- A 'permitted general situation' as defined in the [Privacy Act 1988](#) exists.

**Examples:** it is necessary to lessen or prevent a serious threat to life, health or safety of a person or the public; we suspect that unlawful activity or serious misconduct relating to the Ombudsman's functions or activities has happened or may happen and the information is needed to take appropriate action; we believe it is necessary to assist in locating a missing person; we believe it is necessary to defend court action brought against the Ombudsman

It is the policy of this Office not to collect biometric information. In the unlikely circumstances that it is relevant to a complaint or other investigation then we will seek your agreement to the collection of any such information if it is about you.

In some circumstances we may collect and hold your health information. This is most likely to occur in circumstances where it is relevant to your complaint, in particular when the Ombudsman is performing his functions as the Private Health Insurance Ombudsman, or where the Ombudsman is performing his functions under the *Migration Act 1958* in relation to persons held in immigration detention for more than two years.



More detailed information about the kind of personal information that is collected by us can be found in [Part B](#).

***When will we collect your personal information from someone else***

We will only collect your personal information from someone other than you or your authorised representative if:

- You agree to it; **or**
- It is authorised by law; **or**

**Examples:** the *Ombudsman Act 1976* allows us to obtain personal information from another agency as part of an investigation (see above); the *Migration Act 1958* requires the Secretary of the Immigration department to give the Ombudsman a report relating to the circumstances of a person’s detention for persons held in detention for more than two years; the *Public Interest Disclosure Act 2013* requires agencies to notify the Ombudsman of certain decisions made under that Act.

- It is unreasonable or impractical to collect it from you.

***Collection of personal information for a complaint or investigation***

In our investigation work we have a broad discretion on how we can investigate matters, including the information we can request from other agencies, individuals or private entities. For example to investigate a complaint it is usually necessary to collect personal information from the government agency about which the complaint has been made, either directly from officers of that agency or by remote access to the agency’s databases. As part of this process we may also collect information about a person/s associated with your complaint.

If you make a complaint to us and we decide to investigate the complaint then you should expect that your personal information will be collected in this way.

**Example:** As part of an investigation we may need to know information about current partners, dependent children, people who are being cared for by you, or people you have notified to an agency as having possibly breached a benefit or taxation law.

We may collect personal information from private entities which are private education providers when we are carrying out our Overseas Students Ombudsman functions, or private postal operators which are subject to our Postal Industry Ombudsman jurisdiction. When carrying out our Private Health Insurance Ombudsman functions we may collect your personal information from: another person covered by your private health insurance membership, a hospital, a private health insurer, a private health insurance broker, a health care provider, your employer, a government agency or an advisor that has dealt with you.

We collect personal information in records made during inspections and reviews and in documents provided by agencies for the purposes of our inspections and reviews when carrying out our Inspection functions described above under [Functions](#).

We also collect personal information from private entities where the Ombudsman has a commercial relationship with them, usually when they provide services to the Ombudsman.

### ***Unsolicited personal information***

In some circumstances, such as in the course of an investigation, we are given personal information about a person (which may be about someone other than the person who made the complaint), and we have not asked for this information. This is called ‘unsolicited personal information’ (see [Privacy Act 1988](#)), it can be provided by the complainant, an agency or another person.

In these circumstances we will assess whether we would be permitted under the APPs to collect this sort of information from the person whose personal information it is. If we could have collected it from that person because of our functions and activities, then we will retain it, otherwise we will destroy it. We will not use or disclose unsolicited personal information unless this is permitted by the APPs. We will endeavour to tell you if we collect solicited or unsolicited personal information about you from someone else, however in some circumstances this will not be reasonable for us to do. Due to the confidential nature of Ombudsman investigations we cannot disclose that a person has made a complaint to the Ombudsman.

**Example:** It would be unreasonable to tell a payer in a child support matter that we had collected their personal information if this would disclose that the payee had made a complaint to the Ombudsman.

### ***Other forms of collecting personal information***

We collect personal information as a result of face to face meetings, telephone conversations, in writing by mail, fax or electronic communication and through submissions of complaint forms through our website - see visiting our website [Part C](#) below.

The Ombudsman conducts a number of activities that are incidental to and necessary for carrying out his/her statutory functions described above under [Functions](#). These are best described as ‘corporate’ functions and include finance, accounting, procurement, reporting, employment and human resources activities. Therefore in connection with our corporate activities we collect personal information from a wide range of sources including from job applications of prospective staff, directly from staff, other government agencies and private entities.

From time to time the Ombudsman conducts surveys of people who have contacted the Office to obtain feedback on our performance. Your personal information may be used for this purpose unless you tell us otherwise. You can do this by calling us on 1300 362 072 or by completing this [form](#) (select ‘provide feedback’ from the drop down menu).

### **How the Ombudsman holds personal information**

We hold personal information collected in both electronic and paper records. Apart from our databases used to manage human resources, payroll and banking information we maintain two operational databases. One is specifically designed to manage cases, ‘the case management system’, and the other to manage administrative documents. Both databases are controlled locally and securely. We take steps to ensure that personal information we hold is protected against unauthorised access, use, modification or disclosure, or other interferences. These steps include password

protection for accessing our electronic system, securing paper files in locked cabinets, safes and secure areas, and physical access restrictions.

The case management system stores information in an interconnected way. This means that we can access personal information directly by searching for a person's name, or indirectly, by searching a specific case number or another search parameter. Many of these search parameters are set up to enable the Ombudsman to access material and statistics to comply with our reporting obligations.

Access to records containing personal information is permitted on a 'need-to-know', work-related basis, and subject to restrictions, such as security clearance levels. In some cases access will be more tightly restricted. Where appropriate, senior management may authorise the creation of virtual barriers that prevent staff from physically accessing information contained in electronic records.

**Example:** personnel records are restricted to staff in the relevant area; access to confidential legal advice records are restricted to members of the legal team.

When no longer required, personal information is destroyed in a secure manner, or deleted, in accordance with the [Archives Act 1983 \(Cth\)](#) and the Ombudsman's Records Authority (for Commonwealth Ombudsman records), or the [Territory Records Act 2002 \(ACT\)](#) and Territory Records (Records Disposal Schedule — Ombudsman Complaint Management Records) Approval 2011, (for ACT Ombudsman records).

## For what purposes does the Ombudsman collect, hold, use and disclose personal information

In accordance with the APP's we collect, hold, use and disclose personal information to enable the Ombudsman to carry out his or her functions and activities (see [Background](#)). These functions and activities intersect with the activities of most Commonwealth and ACT government bodies and include international activities with Ombudsman bodies in other countries (see [International program records in Part B](#)). The purposes for which we collect, hold, use and disclose personal information are described in more detail by reference to the kinds of records held by us in relation to specific Ombudsman functions and activities in [Part B](#).

In order to maintain the integrity of our administration systems, develop internal information technology systems, we use records contained in our databases, (which may contain personal information) for system development.

From time to time the Ombudsman conducts surveys of people who have contacted the Office to obtain feedback on our performance. Your personal information may be used for this purpose unless you tell us otherwise. You can do this by calling us on 1300 362 072 or by completing this [form](#) (select 'provide feedback' from the drop down menu). We may conduct the survey ourselves or we may engage an external company to do it for us in which case we will provide your name and contact information to the external company for this purpose.

## How can I access or correct my personal information held by the Ombudsman?

You can ask to see your personal information held by us. If you think that it is wrong or not up to date and/or you can ask that it be corrected. If you are speaking to an Investigation Officer or a member of

the Public Contact Team you can ask them to immediately update information, such as your address or contact details if these have changed.

More formal or extensive requests should be addressed to the 'Privacy Contact Officer' and sent via:

- land mail to GPO Box 442, Canberra ACT 2601; or
- email to [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au).

You can also call **1300 363 072** and ask to speak with a Privacy Contact Officer.

### *Your personal information and Freedom of Information*

Generally, your request for extensive changes to personal information will be considered with reference to the [Freedom of Information Act 1982 \(Cth\)](#) (FOI Act) (for Commonwealth Ombudsman matters) and the [Freedom of Information Act 1989 \(ACT\)](#) (for ACT Ombudsman matters).

You may also seek access to, or request amendment or annotation of, your personal information by submitting a request under relevant Commonwealth or ACT Freedom of Information Acts. Information on how to make a request under the FOI Act may be found [here](#). General information on FOI and Privacy may be found on the Office of the Australian Information Commissioner's (OAIC) [website](#).

When considering your request under the FOI Act, if we believe that a document, containing your personal information, should be withheld because an exemption applies then we may withhold that document (or parts of it). We will provide the reasons for this decision to you in writing. Requests for access will be answered within 30 days from the date a valid request is received.

Ombudsman staff should refer to internal Ombudsman policies and guidelines in relation to access to their personal information.

## **How do I complain about the handling of my personal information by the Ombudsman?**

Complaints about privacy breaches by the Ombudsman must be made in writing. You can address a complaint to the 'Privacy Contact Officer' and send via:

- land mail to GPO Box 442, Canberra ACT 2601; or
- email to [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au).

You can also call **1300 363 072** and ask to speak with a Privacy Contact Officer.

You should set out your reasons why you think we have not handled your personal information in accordance with the APP's.

We will acknowledge your complaint within 7 days, investigate and attempt to resolve all complaints as soon as possible. Your complaint will be referred to a Privacy Contact Officer, usually a member of the Ombudsman legal team. Your complaint will be investigated and you will be advised of the outcome of the investigation. Our decision will be explained with reference to the relevant APPs. The time this will take will depend on the nature of your complaint and how complicated it is.

If you are unhappy with our response or the way we have handled your complaint, you may make a complaint to the OAIC. Details on how to make a complaint to the OAIC can be found [here](#).

Ombudsman staff should refer to internal Ombudsman policies and guidelines in relation to complaints about interference with their privacy.

## Part B – Records: specific kinds of Ombudsman records that hold Personal Information

### Complaint handling and investigation records

These records contain details of complaints made to us in relation to the Ombudsman’s functions under the [Ombudsman Act 1976 \(Cth\)](#), the [Public Interest Disclosure Act 2013 \(Cth\)](#), the [Ombudsman Act 1989 \(ACT\)](#) and the [Public Interest Disclosure Act 2012 \(ACT\)](#) (see [Part A Background](#)). These include complaints made to the Commonwealth Ombudsman in his or her capacity as the Immigration Ombudsman, Law Enforcement Ombudsman, Defence Force Ombudsman, Postal Industry Ombudsman, Overseas Students Ombudsman and Private Health Insurance Ombudsman.

These files also record the actions taken by us in relation to those complaints, including investigation and internal reviews of decisions made about those complaints. The Ombudsman can investigate complaints about most Commonwealth and ACT government agencies, as well as some private contractors to the Commonwealth, the kind of personal information that is collected and held on these files can vary greatly, dependant on the nature of the complaint.

***Government benefits:*** If you complain about an agency’s decision relating to government benefits the personal information might include; your pension status, use of appeal or review mechanisms, complaint and/or customer reference numbers with the other agency, how the action complained about has affected you and any outcome sought.

***Immigration detention:*** A complaint about how you have been treated while held in immigration detention, or a decision about a visa application, might include details of your; physical or mental health, disabilities, sexual orientation, racial or ethnic origin, criminal convictions, religious beliefs, community and/or political affiliations, financial circumstances, or personal relationships.

***Overseas student:*** An overseas student complaint or external appeal about a privately registered education provider, might include details of your; visa status, country of citizenship, your enrolment details, your academic results, medical certificates or other health records provided in relation to your attendance, or other personal details about compassionate and compelling circumstances that may have affected your studies in Australia.

***Student Loans program:*** Complaints from students who are or have studied a higher level vocational education and training (VET) qualification and think they have wrongfully signed up for a VET-FEE-HELP or VET Student Loans program. Personal information may include; the circumstances around accessing a loan, the education provider, enrolment details, the monetary amount of the loan, student identification number, citizenship, personal information (legal name and date of birth), contact

information (including postal address at the time of enrolment), any broker information and any correspondence sent to you in relation to the loan.

**Postal Industry:** complaints about postal (Australia Post) or similar service providers (registered postal operators), may collect information about your complaint and personal contact information such as postal addresses (including third parties).

**Complaint from an ACT prisoner:** complaints may include medical information, details of legal representative/s, social worker/s, other prisoners and associates and video footage of prison incidents.

These files may also contain sensitive information.

Personal information of the kinds described above may also be held in relation to someone other than the person who has made the complaint. Other people whose personal information may be held on these files include relatives or friends of the complainant, staff of other government agencies or government service providers, health care providers and staff of private health insurers/brokers.

Personal information described above is collected to enable us to decide whether your complaint is within the Ombudsman's jurisdiction, whether there is a reason not to investigate the complaint, the agency or private body, in which the complaint is made, or how best to investigate the complaint. It also helps us decide if another body or person could assist you better in resolving your complaint. In some circumstances the [Ombudsman Act 1976](#) allows us to transfer your complaint, including your personal information, to another agency or body. If we investigate your complaint we will contact the agency you have complained about. In some circumstances we will contact other people, organisations or departments if we consider they have information relevant to the investigation. It will normally be necessary for us to disclose some of your personal information when we do this.

If you have contacted the Ombudsman to make a complaint and you are also a person in relation to whom we have an obligation to report to the Minister, such as under the [Migration Act 1958 \(Cth\)](#), then we may use the details of your complaint to help us in our report to the Minister – see below [Immigration detention reporting records](#). We will only use sensitive information from your complaint file if it is directly relevant to the matters in our report to the Minister.

Information contained on complaint files also assists the Ombudsman in discharging his or her wider functions, by giving him or her a context to; target inquiries, request relevant information and make suitably informed reports on actions taken by government.

**Example:** Your complaint about the way an agency has handled your pension or government benefit may be the same as a large number of other complaints, highlighting that this is an issue of interest about which the Ombudsman may wish to conduct an 'own motion' investigation about – see below [Own motion investigation records](#).

In some circumstances an investigation of a complaint will result in the Ombudsman making a report under Division 2 of the [Ombudsman Act 1976](#), or Division 2.3 of the [Ombudsman Act 1989](#). The information collection on the file will be used for the purposes of the report. The Ombudsman may make all or part of the final report public and as far as possible will remove individual names from, and shorten such reports, in order to limit the disclosure of personal information.

### ***Private Health Insurance Ombudsman Records***

Records of investigations by the Private Health Insurance Ombudsman may contain information about individuals' health and medical treatment including details of; health service providers such as hospitals, general practitioners, medical specialists allied health providers and providers of chronic disease management programs. We may hold financial information about individuals and private health insurance funds or brokers. In some instances, if there is a dispute about the terms of a health insurance policy; we may obtain and hold copies of sound recordings of telephone conversations between individuals and representatives of private health insurers or brokers.

### ***Public interest disclosure records - agencies' reporting requirements***

The Ombudsman maintains records relating to particular functions he has under the [Public Interest Disclosure Act 2013 \(Cth\)](#). These records include data collected from agencies in relation to allocation and investigation decisions under that Act. The Ombudsman also maintains records of requests made by agencies seeking an extension of time in relation to the handling of a disclosure. The data collected for these purposes may contain personal information including; the name and contact details of the discloser, the nature of the disclosure and the names/contact details of agency staff. In addition agencies are required to provide further information to the Ombudsman for Annual Reporting purposes, such information would be de-identified and unlikely to contain personal information.

### ***Defence Force Ombudsman***

The Defence Force Ombudsman (**DFO**) receives complaints from members of the Australian Defence Force in relation to administration or employment matters. Reports of historical abuse in the Defence force are now also being received. The types of personal information held on file by DFO may include; personal accounts of abuse (sexual, physical, workplace discrimination or harassment), service information (rank and service identification number), information on the impacts the alleged abuse has had, photographic identification, medical history relating to reports of abuse and personal contact information.

### ***Own motion investigation records***

The Ombudsman may commence an investigation on his or her own motion. This means that the Ombudsman may investigate an issue of interest that relates to; public administration, private education providers, private health insurance arrangements, the public interest disclosure scheme (without a specific complaint), or in relation to a group of similar complaints. We maintain separate files in relation to these investigations, managed both electronically and in paper formats.

The kinds of personal information contained on these files may include that described under [Complaint handling and investigation records](#). The Ombudsman has broad powers to conduct own motion investigations in a manner he or she determines most appropriate. This can be done by obtaining information from a wide range of sources, including individual complaint and investigation records. As with complaint files, information contained on own motion investigation files may be disclosed to the agencies or private bodies in relation to which the investigation is being conducted.

An own motion investigation will usually result in the Ombudsman making a report under Division 2 of the [Ombudsman Act 1976 \(Cth\)](#) (or the equivalent for the Defence Force Ombudsman, Postal Industry Ombudsman, Overseas Students Ombudsman and Private Health Insurance Ombudsman), or Division 2.3 of the [Ombudsman Act 1989 \(ACT\)](#). The information collection on the file will be used for the purposes of the report. The Ombudsman may make all or part of the final report public and as far as possible will remove individual names and shorten such reports in order to limit the disclosure of personal information.

### ***Inspection and law enforcement records***

The Ombudsman keeps records relating to the performance of statutory inspections and review roles. These roles involve assessing the compliance of certain federal, state and territory law enforcement agencies with legislation that deals with, amongst other things; telecommunications interception and access to stored communications, surveillance device use and the conduct of controlled operations. As the ACT Ombudsman, the Ombudsman also has an inspection role in relation to the use of assumed identities and has a particular role to play in monitoring records relating to the ACT child sex offenders register. The Commonwealth Ombudsman also undertakes inspections under the [Australian Federal Police Act 1979 \(Cth\)](#) and the [Building and Construction Industry Improvement Amendment \(Transition to Fair Work\) Act 2012 \(Cth\)](#).

Records of the Ombudsman's inspection and review activities may include personal information of the following kinds:

- the names of judicial and agency officers who issued or are authorised to issue warrants, notices and authorisations;
- the names of Ombudsman staff and staff of other agencies; and
- the names and contact details of people who have made or are the subject of, complaints to the AFP;
- criminal history records (including police interviews), CCTV footage and police incident reports;
- the names, addresses, employment details, video footage, and transcripts of examinations kept as part of the Ombudsman's functions under the [Building and Construction Industry Improvement Amendment \(Transition to Fair Work\) Act 2012 \(Cth\)](#).

We maintain separate files in relation to inspections activities, which are managed in paper and electronic formats. Access restricted to the Ombudsman's Inspections and Law Enforcement Team.

### ***Immigration detention statutory reporting records***

The Ombudsman keeps records relating to the performance of his or her immigration detention reporting function under Part 8 of the [Migration Act 1958 \(Cth\)](#). This requires the Ombudsman to report to the Minister for Immigration, on persons held in immigration detention for more than two years, and every six months thereafter while the person remains in immigration detention. We maintain separate files in relation to this role, managed both electronically and in paper formats.



These records contain personal information relating to immigration detainees and may also contain personal information about employees of the Department of Immigration and Border Protection or service providers contracted to that department. These records could include personal information about; immigration status, criminal charges and convictions, tribunal decision records, court records, detention incidents, health and welfare summary reports, full mental and physical health records, details of prescribed medication, racial or ethnic origins, political affiliations, details about refugee claims, personal relationships and the financial status of persons held in detention. Records may also include information provided by other agencies (such as the Australian Federal Police and other government agencies) with their permission, or obtained using the Ombudsman's formal powers.

Personal information (including sensitive personal information) is obtained from the Secretary of the Department of Immigration and Border Protection as part of his or her obligation under section 480N of the [Migration Act 1958 \(Cth\)](#) and from individual complaint records. In addition, we may obtain personal information from legal representatives or advocates for detainees, and from detainees directly, through interview and/or documents. Sensitive personal information is only used if directly relevant to the Ombudsman's reporting functions.

In accordance with Part 8 of the [Migration Act 1958 \(Cth\)](#), when the Ombudsman makes a report to the Minister it will contain personal information about the person held in detention including their name. The version of the report that is provided for tabling in Parliament will not, as far as possible, contain personal information that can identify the person held in detention and does not include the person's name. Other de-identified information includes date of birth, place of birth, nationality, citizenship, ethnicity, other people's names (including medical professionals, advocates, lawyers and migration agents), hospitals, and the Department of Immigration and Border Protection's unique person identifier. In some cases, information about a person's current detention placement may be de-identified. In other cases, information is not only de-identified but redacted, for example, where the report includes personal medical detail or sensitive information about minors.

Procedures relating to handling these files are regularly reviewed and access to these records is only permitted to members of the relevant team responsible for this function.

### ***Miscellaneous contact records***

The purpose of these records is to record details of approaches made to the Ombudsman that do not constitute complaints for the purposes of either the Commonwealth or ACT Ombudsman Acts. Such approaches may be from members of the public, officers of other agencies, the media or researchers. The records may also contain complaints about us and how we may have handled your complaint or relate to alleged breaches of the Ombudsman's service charter or other matters. The kinds of personal information stored on these records may reflect any of the kinds described above.

### **Freedom of Information records**

Records are kept of all requests for information made to the Commonwealth Ombudsman under the [Freedom of Information Act 1982 \(Cth\)](#) and to the ACT Ombudsman, under the [Freedom of Information Act 1989 \(ACT\)](#). These files also record requests for internal review of Ombudsman FOI decisions, as well as requests for annotation and/or amendment of records. We also record our interactions with

the Office of the Australian Information Commissioner (**OAIC**) in respect of FOI complaints and Information Commissioner reviews.

Personal information on these records may relate to the person who has made the FOI request, complainants to the Ombudsman (whether or not they are also the FOI applicant), Ombudsman staff, staff of other agencies, and any other person whose personal information is contained in the record to which FOI access has been sought.

Most requests that we receive under Freedom of Information laws relate to complaint investigation files, therefore usually the personal information will consist largely of the kinds mentioned above under 'Complaint handling and investigation'.

### **Voicemail records**

Telephone calls to our main telephone number (1300 362 072) may be recorded when a telephone call is not taken (voicemail). These are registered on our phone system may relate to a range of matters, including complaints, general enquiries, media enquiries and contact by other agencies. The personal information contained in them may include a caller's name, address and telephone number. Depending on the subject matter of a recording the information contained in it will be placed onto other records will be reduced to a written form (not necessarily an exact transcription), and be handled accordingly. Some old records may have the audio recording filed. Once placed with the relevant record the recording (voicemail) is destroyed. These records may also be used for training and quality assurance purposes.

### **International program records**

The purpose of these records is to capture our work in improving the quality and performance of Ombudsman offices in countries within the Asia-Pacific region. Files typically contain details about the development and delivery of relevant programs and projects. This may include details of overseas visits and liaison activities with other Ombudsmen.

Personal information contained on these files are generally limited to that of Ombudsman staff, staff of other State or international Ombudsmen offices and staff of other Australian or international government organisations. It may include names, business and personal address details, *curriculum vitae* (CV's), information relating to expressions of interest for employment, information about next of kin and emergency contacts, birth and gender details, medical information and passport details.

Passport pages (including personal information contained in them) are used for arranging travel and accommodation as well as enabling our counterpart organisations to send correspondence for visa purposes. This information may be sent to diplomatic missions of countries in the Asia Pacific region.

Next of kin and medical information may be revealed to overseas countries in the case of an emergency. We also hold such information in relation to staff of overseas counterpart organisations who visit our Office.

CVs and expression of interest documents containing personal information of Ombudsman staff are sent to our counterpart organisations overseas as a way of introducing placement officers. Likewise

we receive and hold this information in respect of staff of our overseas counterpart organisations, which visit or work in our Office.

The countries we send (usually through their diplomatic missions within Australia), personal information described above include; the Republic of Indonesia, Solomon Islands, Samoa, the Independent State of Papua New Guinea, Republic of Kiribati, the Republic of the Marshall Islands, New Zealand, Republic of Peru, Cook Islands, Niue, the Kingdom of Tonga, the Republic of Nauru, and the Republic of Vanuatu.

### Personnel records of staff

The Ombudsman has duties and powers as an agency under the [Public Service Act 1999 \(Cth\)](#) and has other associated obligations, including those arising under the; [Disability Discrimination Act 1992 \(Cth\)](#), [Sex Discrimination Act 1984 \(Cth\)](#), [Fair Work Act 2009 \(Cth\)](#), [Safety Rehabilitation and Compensation Act 1988 \(Cth\)](#), [Superannuation Act 2005 \(Cth\)](#), [Long Service Leave \(Commonwealth Employees\) Act 1976 \(Cth\)](#), [Maternity Leave \(Commonwealth Employees\) Act 1973 \(Cth\)](#) and [Work Health and Safety Act 2011 \(Cth\)](#). Records are kept by us to enable the Ombudsman to discharge his or her functions in relation to these obligations and related responsibilities in respect of staff, employees or contractors.

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 of the Ombudsman's Office.

Access to personnel files is controlled on a 'need to know' basis. Not all members of the Human Resources team have access to all personnel files. Spreadsheets used to capture personal information are password protected.

Personal information is disclosed on a 'need to know' basis to the Department of Prime Minister and Cabinet for the purposes of administering our payroll and to travel providers under the 'whole of government' travel arrangements. In addition, we are required to give personal information to various bodies including the Australian Public Service Employment Database, the Australian Government Security Vetting Agency, the Australian Taxation Office and Comcare.

Staff should refer to internal guidelines for more detail in relation to these records.

### Corporate administrative records including policy records

The purpose of administrative records is to hold information relating to corporate functions, including office governance, financial management, procurement, legal services, privacy, information, communications/technology, public affairs and both physical and information security.

Such files may contain a range of personal information relating to complainants, contracted service providers, Ombudsman staff (and staff of other agencies) as well as members of the wider community. Such information is likely to mirror the kinds described above in relation to complaint investigations.

## Strategic/agency liaison records

The purpose of these files is to record information and activities relating to policy aspects of the Ombudsman's work. For example, the development of directions, aids or systems to support our decision-making and the performance of statutory functions. Information on these records may also help us make contributions to policy debates across government.

Some of these files may include material relevant to closed or ongoing investigations (where it is related to, or may inform consideration of, a broader policy issue) and include personal information about complainants or agency staff.

These files may also contain interagency protocols or memoranda of understanding and details of interagency meetings, including the names of attendees and their positions within agencies.

## Part C - Online

### Scope

This privacy statement applies to your interactions with Commonwealth Ombudsman [website](#) and ACT Ombudsman [website](#). This statement discloses our information gathering and dissemination practices that are set out in accordance with the [Privacy Act 1988 \(Cth\)](#).

### Privacy statement

We are committed to the protection of your privacy in accordance with the Australian Information Commissioner's [Guidelines](#) for Federal and ACT Government World Wide Websites. These guidelines outline the requirements for transparent collection, appropriate and ethical use and secure storage of personal information. Our aim is to provide an online environment which will ensure the information you provide to us is handled in a secure, efficient and confidential manner.

### Information collected

When visiting our websites, a record of your visit is logged. This 'clickstream data' is recorded for statistical purposes only and is used to help improve the website. The following information is supplied by your browser (e.g. Internet Explorer):

- the user's server address
- the user's operating system (for example Windows, Mac etc.)
- the user's top level domain name (for example .com, .edu, .gov, .au, .uk etc.)
- the date and time of the visit to the site
- the pages accessed and the documents downloaded
- the previous site visited,
- the type of browser used.

No attempt will be made to identify users or their browsing activities except in the unlikely event of an investigation, where a law enforcement agency (or other government agency) exercises a legal authority to inspect Internet Service Provider (ISP) logs (e.g. by warrant, subpoena or notice to produce).

## Cookies

Cookies are small text files that a website can transfer to your computer when you access information on that website. Cookies can make websites easier to use by storing information about your preferences on a particular website. Some cookies may remain stored on your computer for a predetermined amount of time unless you specifically clear them. Our websites may use cookies.

## Collection of personal information

When you e-mail us:

- we will record your e-mail address
- we will only use your e-mail address for the purpose for which you provided it
- it will not be added to a mailing list, unless provided by you specifically for that purpose
- we will not use your e-mail address for any other purpose
- we will not disclose it without your consent or otherwise in accordance with the APPs

## Security

Our websites do not generally provide facilities for the secure transmission of information across the Internet. The only exception to this is that users can submit complaints using our [online complaint form](#), which uses an encrypted connection, provided by the SSL/TLS protocol. Nonetheless, users should be aware that there are inherent risks in transmitting information across the Internet. As an alternative, users are able to write or call us:

|                  |  |
|------------------|--|
| <b>Via Mail:</b> | Commonwealth Ombudsman<br>GPO Box 442, Canberra ACT 2601                   |
| <b>Phone:</b>    | 1300 362 072   |
| <b>Email:</b>    | <a href="mailto:ombudsman@ombudsman.gov.au">ombudsman@ombudsman.gov.au</a> |

## Links to other sites

Our websites contain links to other websites. We are not responsible for the content or the privacy practices of other websites and we encourage you to examine each website's privacy policy.

## Feedback

If you have any questions about this privacy statement, your dealings with the Commonwealth Ombudsman, or our website, please contact us at [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au).