



Australian Government

Department of Foreign Affairs and Trade

# CONSULAR PRIVACY COLLECTION STATEMENT

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## About this statement

Providing consular assistance to Australians overseas is a core function of the Department of Foreign Affairs and Trade (DFAT). To do this effectively, we (DFAT) are required to collect, use and disclose an individuals' personal information.

The privacy of consular clients and their families is a fundamental aspect of managing consular cases. In accordance with Australian Privacy Principle 5, this statement outlines how we collect, use, disclose and store personal information related to consular cases in accordance with the *Privacy Act 1988* (Privacy Act). Our privacy policy is available at [dfat.gov.au](https://dfat.gov.au).

## How and when DFAT collects personal information in consular matters

We collect your personal information where we reasonably believe it is necessary for performing our consular functions and activities. In most consular matters we will collect personal information, including sensitive information, directly from you or your authorised representative. Sensitive information will only be collected if you give your consent at the time we collect the information from you, unless an exception in the Privacy Act applies.

One exception is when we reasonably believe it is necessary for us to collect your information without your consent to perform our consular functions or activities. In some instances this means we may need to collect your personal information from a third party or a publicly available source (for example, if you are arrested overseas and our consulate staff are not made aware of the arrest before it appears in the media). Where it is necessary for us to seek your personal information from a third party, we will always ask for your consent first, if possible.

Similarly, in many consular cases it is a third party (such as a family member) that raises concerns about your welfare with us. In such cases we will try to contact you to see if you need consular assistance and will tell you that we have collected your personal

information from a third party. We may also be required or authorised by or under an Australian law, or court or tribunal order, to collect your personal information from a third party.

If you choose not to provide us with your personal information, we may be unable to provide you with consular assistance or our consular assistance may be limited.

## **How DFAT uses and discloses personal information in consular matters**

If we collect your personal information to provide you with consular assistance, we will only use and disclose your personal information for that purpose, unless otherwise permitted by the Privacy Act. As using and disclosing your personal information is essential to providing you with consular assistance overseas, you will be required to give us consent to use and disclose relevant personal information for this purpose.

You have the option of remaining anonymous or adopting a pseudonym when dealing with us, but this may limit our ability to respond or assist you.

We will not use or disclose your personal information further if you decline consular assistance, unless we are permitted to do so under the Privacy Act. We may use discretion where we hold some concern about your mental capacity to provide consent. If you have declined consular assistance you can always request it at a later date.

You can also consent to us disclosing your personal details and information about your situation to a nominated next of kin or representative. It is up to you how much or how little information may be disclosed. We do not provide any information to your nominated next of kin or representative without your consent, unless authorised under the Privacy Act.

In some instances it may be necessary for us to use or disclose your personal information in order to provide you with help where you have refused consent or we can't obtain your consent. This may arise in emergency situations, where you have been reported missing, or

when your capacity to provide informed consent is under question due to a physical, psychiatric or drug-induced incapacity. The Privacy Act allows us to use or disclose your personal information where we 'reasonably believe that the ... use or disclosure is necessary for [our] consular functions or activities'. Decisions to use or disclose personal information without your consent are not taken lightly, and are made by senior officers in Canberra in discussion with case officers.

Examples of situations where this may occur include:

- If you become seriously ill overseas and either can't consent or refuse to consent while not in a rational state of mind, we may tell your family or nominated contact if we consider it essential for your interests, or for theirs.
- If you are arrested or imprisoned overseas and don't consent to disclosing your personal information, we may confirm, clarify and correct information already available in the media in response to inquiries from your family or other contacts.
- If your family or nominated contact asks about your welfare and whereabouts overseas and you do not wish to tell them, we may tell your family or nominated contact that we have made contact with you but that you don't consent to the release of any information.

In all dealings with you, we will do our best to respect your privacy and will always try to obtain your informed consent to disclosure.

Where we have collected your personal information to provide you with consular assistance, we will not use or disclose your personal information for any other purpose unless one of the following applies:

- you have consented to the use or disclosure for a secondary purpose

- you would reasonably expect the information to be used or disclosed for a secondary purpose which is related to the primary purpose, or (in the case of sensitive information) the secondary purpose is directly related to the primary purpose
- the use or disclosure is required or authorised by law or a court or tribunal order
- it is not reasonable or practical for us to obtain your consent and we reasonably believe the use or disclosure is necessary to lessen or prevent a serious threat to your (or another's) life, health or safety, or to public health or safety
- we reasonably believe the use or disclosure is necessary for our diplomatic or consular functions and activities
- we reasonably believe the use or disclosure is necessary for activities conducted by or on behalf of an enforcement body
- in some limited circumstances, we will confirm to the media that we are providing you with consular assistance, or correct and/or clarify information about the nature of that assistance
- the use or disclosure is otherwise in accordance with the Privacy Act.

Please note that we may also use and disclose your personal information to seek your feedback on our consular services, for quality assurance and training purposes.

### **Disclosure of personal information to overseas recipients in consular cases**

We provide consular assistance to Australians across the globe which may result in an individual's personal information being disclosed to overseas recipient(s). Given the wide spread of locations in which you may need assistance, and the unique circumstances of each consular case, it is not practicable to specify the location of these recipients in advance.

When you provide consent for our officers to use and/or disclose your personal information for the purpose of providing you with consular assistance, you accept that if we disclose that information to an overseas recipient, we will not take any steps to ensure that the overseas recipient does not breach the Privacy Act. As a result, we will not be accountable under the Privacy Act and you will not be able to seek redress under the Privacy Act if the overseas recipient breaches that law.

## **How we store and protect personal information**

Access by departmental staff to personal information contained in consular files is strictly limited to a need to know basis.

Sensitive personal information stored in our databases can only be accessed by authorised users to work on particular enquiries, complaints, applications, and/or cases. These databases have an audit trail whenever personal information is included, amended, or deleted.

We take steps to protect the personal information we hold against misuse, interference and loss, as well as unauthorised access, modification or disclosure. This includes password protection for electronic files, securing paper files in locked cabinets and physical access restrictions.

Personal information held by DFAT in Commonwealth records is managed securely through our recordkeeping system. When no longer required to be retained as part of a Commonwealth record, personal information is destroyed in accordance with the *Archives Act 1983* (Archives Act).

## **Access and correction of personal information**

You may ask for access to your personal information held by DFAT and, where relevant, seek its correction. This includes personal information that is contained in consular case files.

Consular case files are held by the Consular Operations Branch in accordance with the security and retention requirements under the Privacy Act and the Archives Act. To access your personal information,

or to request an amendment, please email your request to [centre.conops@dfat.gov.au](mailto:centre.conops@dfat.gov.au).

Unless we are required or authorised under the Freedom of *Information Act 1982* or other relevant law to refuse access, we will allow you access under the Privacy Act. If you request amendment of your personal information, we are unable to amend your consular case file due to our obligations under the Archives Act. However, we will take reasonable steps to associate a statement with your file which addresses the personal information you believe to be inaccurate, out-of-date, incomplete, irrelevant or misleading.

## Complaints

We take your privacy seriously when managing consular cases. If you are concerned about the Department's handling of your personal information in relation to a consular case, you may wish to raise your concern directly with the Assistant Secretary, Consular Operations Branch. This may allow for an informal and direct resolution of your complaint. Please send an email to [consular.feedback@dfat.gov.au](mailto:consular.feedback@dfat.gov.au)

Our Privacy Policy is available at [dfat.gov.au](http://dfat.gov.au). This Policy provides more information on how to make a privacy complaint and how your complaint will be handled.

## How to contact us

**Telephone** 1300 555 135

**Email** [centre.conops@dfat.gov.au](mailto:centre.conops@dfat.gov.au)

From time to time, we will review and revise this privacy collection notice. We reserve the right to amend this notice at any time.

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Information for travellers and travel advisories are available from the Department of Foreign Affairs and Trade's Smartraveller website ***smartraveller.gov.au***.

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