



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). In order to provide effective consular assistance, DFAT is 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. This statement outlines how DFAT collects, uses, discloses and stores personal information related to consular cases in accordance with the *Privacy Act 1988*. This notice is provided pursuant to Australian Privacy Principle 5. DFAT's privacy policy is available at 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 the performance of 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 provide your consent at the time we collect the information from you, or if an exception in the Privacy Act applies.

An exception will apply when we reasonably believe it is necessary for the Department to collect your information in order to allow us to perform our consular functions or activities. In some instances consular officers may need to collect personal information from a third party or a publicly available source in order to provide effective consular assistance. For example, in cases where an Australian has been arrested overseas and our consulate staff are not made aware of the arrest before it appeared in the media. Where it is necessary for consular officers to seek your personal information from a third party, we will always seek your consent first, where possible.

Similarly, many consular cases initially come to our attention through the provision of personal information by a third party, for example where a family member raises concerns with us about your welfare. In such cases we will seek to make contact with you to see if you require consular assistance and will notify 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.

How DFAT uses and discloses personal information in consular matters

Personal information that is collected for the purpose of providing an individual with consular assistance is used and disclosed solely for that purpose, unless otherwise permitted by the Privacy Act. As using and disclosing personal information is essential to providing consular assistance, individuals who require assistance from Australian consular officials overseas are required to provide consent for our officers to use and/or disclose relevant personal information for the purpose of providing consular assistance.

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

Where you decline consular assistance, no further use or disclosure of your personal information will occur. We may exercise discretion where we hold some concern about your mental capacity to provide consent. If you have declined consular assistance you are always able to request that it be provided at a later date.

You may also provide consent for consular officers to disclose personal details and information concerning the situation to a nominated next of kin or representative. Where you do consent, you also have the opportunity to specify or limit the information that may be disclosed on your behalf. DFAT does not provide any information to your nominated next of kin or representative without your consent, unless authorised under an exception to the Privacy Act.

In some instances it may be necessary for consular officers to use or disclose an individual's personal information in order to provide consular assistance where that individual's consent has been refused or cannot be obtained. This may arise in emergency situations, where an individual is reported missing, or when the individual's capacity to provide informed consent is under question due to a physical, psychiatric or drug-induced incapacity. The Privacy Act allows DFAT to use or disclose personal information where it 'reasonably believes that the ... use or disclosure is necessary for [its] consular functions or activities'. Decisions to use or disclose an individual's personal information without consent are not taken lightly, and are made by senior officers in Canberra in consultation with case officers.

Examples of situations where this may occur include:

- If you become seriously ill overseas and either are not capable of giving your consent or you refuse consent while not being in a rational state of mind, DFAT may inform your family or nominated contact if it considers it essential to do so; in your interests or those of your family or nominated contact.
- If you are arrested or imprisoned overseas and do not consent to the disclosure of your personal information, DFAT 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 the department about your welfare and whereabouts overseas and you do not wish to tell them, DFAT may disclose to your family or nominated contact that it has made contact with you but that you do not consent to the release of any information.

In all dealings with you, consular officers will do their utmost to respect your privacy and will always try to obtain your informed consent to disclosure.

Where DFAT has collected your personal information for the purpose of providing 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 where the secondary purpose is directly related to the primary purpose
- it is required or authorised by law
- we reasonably believe it is necessary for our diplomatic or consular functions and activities
- we reasonably believe it is reasonably necessary for enforcement 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
- it is otherwise in accordance with the Privacy Act.

Disclosure of personal information to overseas recipients in consular cases

DFAT provides 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 Australians may need assistance, and the unique circumstances of each consular case, it is not practicable to specify in advance the location of these recipients.

We will not disclose your personal information to an overseas recipient unless one of the following applies:

- the recipient of your information is subject to a law or binding scheme substantially similar to the way in which the Australian Privacy Principles (APPs) protect your information, and you have

access to mechanisms to enforce the protection offered by that law or binding scheme; or

- you have consented to the disclosure after being expressly informed that we cannot guarantee that your information will be protected to the same extent that it is in Australia;
- it is required or authorised by law;
- we reasonably believe it is necessary for our diplomatic or consular functions and activities;
- it is required or authorised by an international agreement relating to information sharing to which Australia is a party;
- we reasonably believe it is reasonably necessary for an enforcement related activity conducted by, or on behalf of, an enforcement body and the recipient performs similar functions
- it is otherwise in accordance with the Privacy Act.

For example, we may disclose your name and travel details to a foreign emergency service so that they may locate/assist you during a crisis or emergency in that country.

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 DFAT's databases can only be accessed by authorised users for the purpose of working on particular enquiries, complaints, applications, and or cases. These databases maintain 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; and from unauthorised access, modification or disclosure. These steps include 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*.

Access and correction of personal information

You may seek 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 retained by the Consular Operations Branch in accordance with the security and retention requirements under the Privacy Act and the Archives Act. To seek access to the personal information we may hold about you, or to request an amendment to your personal information, please email your request to 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 to access or amend your personal information under the Privacy Act.

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, Policy Branch. This may allow for an informal and direct resolution of your complaint. Please send an email to consular.policy@dfat.gov.au

DFAT's Privacy Policy is available at dfat.gov.au. The Policy provides more information about 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

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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