

Privacy Policy

Version 4

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Australian Government

Fair Work
OMBUDSMAN

Document Management

Version History

Version	Date	Author	Revision Comments
V0.1		Sally Dennington	March 2015
V0.1.2		Sally Dennington	November 2016
VO. 3	May 2020	Nicola Forbes	Additions related to surveys, health information and data matching
V0.4	October 2020	Nicola Forbes	Additions related to collection of protected information from Australian Taxation Office in relation to JobKeeper and additional see reference under Our Regulatory Activities.

Approvals

Name	Role	Date
Mark Davidson	Director, Customer Feedback and Information Access	March 2015
Sally Dennington	Director (a/g), Customer Feedback and Information Access	November 2016
	Accountability Committee	May 2020
	Accountability Committee	December 2020

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About this policy

The Fair Work Ombudsman is an independent statutory office that supports compliant, productive and inclusive workplaces and ensures compliance with Australian workplace laws, including the *Fair Work Act 2009* (Fair Work Act).

We are bound by the *Privacy Act 1988* (Privacy Act) when collecting, holding, using and disclosing your personal information. The Privacy Act contains 13 Australian Privacy Principles which outline government agencies' responsibilities and individuals' rights designed to protect privacy. This policy applies to our treatment of all personal information, whether it relates to a customer, an employee, or another person.

This policy describes how we comply with the Privacy Act and explains:

- the types of personal information we collect;
- how this information is used;
- when it can be disclosed; and
- who it can be disclosed to

We regularly review this policy to ensure it contains update-to-date information about how we manage your personal information.

Overview

We collect, hold, use and disclose personal information to carry out our functions and activities, including when we:

- advise, assist, educate and inquire into workplace matters
- take action in courts to address unlawful conduct
- monitor compliance with visa conditions
- respond to access to information requests
- communicate with the public, stakeholders and the media
- publish information on our website
- conduct or facilitate surveys (either directly or through a third party provider)
- recruit and hire staff.

Dealing with us anonymously

When communicating with us, you can remain anonymous or use a pseudonym.

If you choose to remain anonymous, this may limit our ability to help you because we often need your name and information about your matter to handle your enquiry, request or feedback.

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

Collecting your personal information

We collect personal information when it is reasonably necessary for, or directly related to, our functions or activities under the Fair Work Act, the *Public Service Act 1999*, the *Paid Parental Leave Act 2010*, the *Road Safety Remuneration Act 2012* and other relevant legislation.

The types of personal information we collect include:

- names, addresses, dates of birth, telephone numbers and email addresses
- letters of offer and employment contracts
- work rosters, sign-in sheets, pay slips and bank statements
- statements taken by the Fair Work Ombudsman which identify individuals
- health information (for example, medical certificates).

We only collect personal information using lawful and fair means.

Collecting personal information directly from you

The main way we collect personal information about you is when you give it to us, including when:

- you contact us by phone, email or through our website
- you request assistance from us
- you register for or use MyAccount
- you participate in a survey conducted or facilitated by us or through a third party provider
- we conduct an investigation.

Collecting your personal information from others

We may collect personal information about you from other people or publicly available records. We do this when:

- it is unreasonable or impractical to collect the information from you
- you consent to it or
- we are required or authorised to do so by law.

For example, we may use internet search engines, white pages, internet articles and social media to locate people who are owed money where other methods of locating them have failed.

Fair Work Inspectors are also authorised under the Fair Work Act to require employers and other people to produce records or documents (for example, pay slips and work rosters) to check whether workforce obligations are being met and which may contain your personal information.

There are some circumstances where it may not be reasonable or possible to tell you that we are collecting your personal information from a third party. This may include when we collect information about a large number of individuals in similar circumstances, such as when we collect information from:

- government agencies; or
- listed public entities such as companies and trusts

We may also collect your personal information when we are conducting a targeted campaign or an audit of a particular industry to assist us to decide which employment arrangements warrant scrutiny.

Jobkeeper scheme

The FWO is authorised to collect information from the Australian Taxation Office under the *Taxation Administration Act 1953* (Cth) in relation to the Jobkeeper scheme (within the meaning of the *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020*) for the purposes of the administration of the Fair Work Act.

For more information, visit the Australian Taxation Office's [Procedures for Disclosing Protected Information page](#).

Sensitive information

Sometimes we may need to collect sensitive information about you with your consent, including information about your health, your membership of a professional or trade association or trade union, or your criminal record. We will only do this with your consent, when authorised by law or in accordance with the Privacy Act.

Visiting our website

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 date and time of your visit, the pages you accessed, the information you downloaded and the type of internet browser you used). Our website does not record any personal information about you.

We use this information to improve our online products and services.

Email lists

If you subscribe to our email list or employer newsletter, your email address and any other contact details you provide will be collected. We only use this information to send you regular updates on our activities and to administer these lists.

Social networking services

We 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.

The social networking services will also handle your personal information for their own purposes. These services have their own privacy policies.

Using and disclosing personal information

We only use personal information for the purpose for which it is collected unless an exception applies in accordance with the Privacy Act. Some of the situations where we use or disclose personal information are listed below.

Our regulatory activities

We usually need to use and disclose your personal information when we perform functions or exercise powers under the Fair Work Act, including the conduct of investigations or other compliance activities.

For example, if you request assistance from us, the personal information you provide (such as your pay slips) may be used to check whether your employment entitlements have been met. Other personal information that you provide (such as your contact details) may be used to contact you and keep you up-to-date with your enquiry.

During a dispute resolution process, a Fair Work Inspector may give personal information relating to one party to the dispute (for example, the employee) to the other party (for example, the employer) for the purpose of resolving the matter and contributing to procedural fairness.

We may share your personal information with other regulatory agencies where another agency has regulatory responsibility under their legislation. For example, if we identify issues of misuse or fraud concerning Jobkeeper we may refer the matter to the Australian Taxation Office.

We may use and disclose your personal information as part of large scale activities to monitor and review compliance with the Fair Work Act. This may involve the exchange of information with other government agencies. These activities comply with the data matching guidelines issued by the Privacy Commissioner.

For further information see the **Data matching** section on page 10 of this document.

Employee information

Personal information is collected from staff to ensure our employee information is up-to-date for employment related purposes. We may also collect information from staff where we are authorised or required to by the *Public Service Act 1999*, the *Public Service Regulations 1999* or other legislation.

This information can include job applications, notes made by selection committees during selection processes, employment contracts, copies of academic qualifications, bank account details, medical certificates, or health related information.

Referral to law enforcement authorities

We are authorised under the Fair Work Act to give information to other Commonwealth, State or Territory bodies when it is likely to assist with the administration or enforcement of a law. Examples include providing the police with personal and other necessary information if it is needed to assist in a criminal investigation, and providing the Australian Taxation Officer with information to assist in an inquiry regarding an entity's compliance with tax laws. Another example is giving information to the Commonwealth Director of Public Prosecutions if we suspect a person has committed fraud against the Commonwealth.

Public health and safety concerns

We may need to urgently disclose personal information to a State or Commonwealth authority for the purpose of virus (e.g. COVID-19) contact tracing or management, in order to prevent the spread of a communicable disease and fulfill our work health and safety obligations. We might also share limited personal information to an infected individual's work colleagues or other contacts, if the disclosure is necessary to lessen or prevent a serious threat to the health or safety of others. Where reasonable, we will obtain the consent of the relevant individual before any such disclosure if made. The disclosures are authorised under public health laws and under the Privacy Act.

Advisers, contractors and outsourcing

Sometimes we engage recognised expert advisers from outside FWO for assistance and advice. We use external lawyers to provide advice about matters and to represent us in court. The information we provide to our external lawyers often necessarily includes personal information.

We also engage specialised advisers including universities to assist us with research projects.

If a third party is contracted to carry out some of our functions, such as providing legal or research services, the contractor and its employees are bound by the Privacy Act when dealing with personal information. This would apply where they provided services through their own websites.

We also ensure that the privacy and confidentiality of your personal information is addressed in these contracts.

We disclose personal information to a number of service providers including IT service providers that host our website servers, manage our IT and store our information (including human resources information).

Enquiries, education and business improvement

We may also use your personal information to:

- contact you about an enquiry or you have made or information you have provided
- tell you about the assistance or information we can give you, or
- seek feedback about your dealings with us for business improvement, training and reporting purposes.

Freedom of information requests

We are authorised to disclose information under the *Freedom of Information Act 1982*. This legislation provides any person with the right to obtain documents held by us, other than exempt documents, and the right to ask for information held by us about them to be corrected or annotated if it is incomplete, incorrect, out of date, or misleading.

The information we disclose under this legislation may include your personal information, but we will consult with you where appropriate before such a disclosure is made.

Overseas disclosure of personal information

It is unlikely that we will disclose your personal information to people or organisations located overseas.

If we need to do this (for example, if your employer is located overseas), we will make the overseas disclosure in accordance with the Privacy Act.

Web traffic information is disclosed to Google Analytics when you visit our website. Google stores information across multiple countries. For further information see [Google Data Centres](#) and [Google Locations](#).

Special laws applying to tax file numbers

Sections 8WA and 8WB of the *Taxation Administration Act 1953* and the Australian Information Commissioner's [Privacy \(Tax File Number\) Rule](#) contain special rules relating to the collection and use of tax file numbers.

We cannot and will not ask you to give us your tax file number, unless it is required and we have your consent to do so because you are an employee or contractor engaged by the Fair Work Ombudsman. If you are not working for us and your tax file number is in the documents you give us (such as your group certificate or payment summary as evidence as amounts paid to you), we cannot record, use, or disclose your tax file number. If a tax file number is inadvertently recorded, we will do our best efforts to ensure it is not used or disclosed unlawfully.

For more information about your rights relating to tax file numbers, visit the Office of the Australian Information Commissioner's [website](#) or the Australian Taxation Office's [website](#).

Accessing and correcting your personal information

You can ask to access the personal information we have about you, or ask that we change this information if it is inaccurate, out-of-date, incomplete, irrelevant or misleading.

We may ask you to put your request in writing and give us proof of identification before we release or change your personal information. We will respond to your request within 30 days and there are no fees for requesting access to your personal information.

If we refuse to give you access to or correct your personal information, we will give you written reasons why.

If you want to access or correct your personal information, please contact our **Privacy Officer**. The Privacy Officer's contact details are given below.

Data matching

We do checks to test whether or not employers are complying with the law. These checks include audit and verification programs and computer-based information matching, known as data matching. This allows information from a variety of sources to be brought together, compiled and applied to a range of public policy purposes. Data matching helps us to identify people who are not complying with their obligations under the Fair Work Act.

Our usual data sources include government agencies managing the registration of businesses and company directors. The supply of this data is authorised by law. We match this data with information provided to us through our call centres and website. Data matching in this way can enable us to detect people who are not meeting their obligations under the Fair Work Act, such as paying their employees their full entitlements under a relevant Award or not taking adverse action against an employee for exercising their workplace rights, and so on.

We also undertake large scale activities involving information exchange with other government agencies which are authorised by law. Data-matching projects may be conducted in order to address particular compliance risks or issues or to address trends related to specific industries.

We compare externally sourced data with information that we already hold. If we check information related to you it doesn't mean we think you're not compliant with the Fair Work Act, but if we find discrepancies we may take follow-up action.

The data is also used to check trends within industries and helps us to focus on future compliance risks.

To better protect your privacy, we comply with voluntary guidelines about data matching issued by the [Privacy Commissioner](#).

The protocols that we follow to protect your information include:

- publishing data-matching protocols that describe our data-matching activities
- advertising these protocols in the Commonwealth gazette
- secure storage of data-matching information
- only giving access only to authorised staff
- regularly reviewing the progress of projects and checking that information is being properly used and protected
- providing the Information Commissioner with protocols for programs involving more than 5,000 individuals

Storage and security of personal information

We use a range of physical and electronic security measures to protect your personal information from loss, misuse, interference, unauthorised access, modification or disclosure. We have policies and systems in place aimed at ensuring your personal information will only be accessed by employees or contactors on a need to know basis. We may hold and analyse your personal information within an e-Discovery Platform for the purposes of managing investigations and potential litigation.

Disposal of personal information

When we receive personal information about you (whether solicited or unsolicited) the information will, in almost all cases, be treated as a Commonwealth record. We are bound by the *Archives Act 1983* to retain Commonwealth records until we can lawfully dispose of them, generally either in accordance with:

- o a 'records authority' issued or agreed to by the National Archives – a records authority determines how long we hold information and when we dispose of it
- o 'normal administrative practice' – which permits the destruction of information that is duplicated, unimportant or of short-term facilitative value.

Complaints

You can complain to us about the handling of your personal information by emailing us at yourfeedback@fwo.gov.au.

We will make all attempts to respond to and deal with your complaint quickly and within a reasonable time. 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 [Privacy Commissioner](#). For more information, visit 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](#).

Contact Us

For questions about your privacy, you can contact our Privacy Officer by emailing privacy@fwo.gov.au or writing to:

Privacy Officer
Information Governance
Fair Work Ombudsman
GPO Box 9887
Sydney NSW 2001