



Australian Government  

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Comcare

# PRIVACY POLICY

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# COMCARE'S PRIVACY POLICY

Comcare takes its privacy obligations very seriously and is committed to meeting the highest standards when collecting, storing, using and disclosing personal information.

Comcare is required to comply with the *Privacy Act 1988* (Privacy Act) when handling personal information and must have a clearly expressed and up to date privacy policy. Comcare implements practices, procedures and systems relating to its functions and activities to ensure that it complies with the Australian Privacy Principles (APPs), including:

- > complying with the requirements of the *Privacy Act 1988* (Privacy Act), *Privacy Amendment (Notifiable Data Breaches) Act 2017* and the *Australian Government Agencies Privacy Code*
- > ensuring all Comcare staff understand and comply with Comcare's privacy obligations and this privacy policy
- > responding promptly and transparently to privacy complaints
- > conducting audits and quality inspections of data systems and information processes
- > maintaining an effective working relationship with the Office of the Australian Information Commissioner (OAIC).

## WHAT IS THE PURPOSE OF THIS PRIVACY POLICY?

The purpose of this privacy policy is to:

- > clearly communicate Comcare's personal information handling practices
- > enhance the transparency of Comcare's operations
- > give individuals a better and more complete understanding of the sort of personal information that Comcare holds, and the way it handles that information.

The Privacy Act sets the minimum standards Comcare, as an Australian Government agency, has to meet when handling personal information.

'Personal information' is defined in the Privacy Act as:

- > 'Information or an opinion about an identified individual, or an individual who is reasonably identifiable:
  - a) whether the information or opinion is true or not; and
  - b) whether the information or opinion is recorded in a material form or not.'

The Privacy Act contains thirteen APPs which:

- > set out legally binding standards for handling personal information
- > regulates how Comcare can collect, store, use and disclose personal information
- > requires Comcare to allow people to access the information about them that Comcare keeps
- > requires Comcare, in certain circumstances, to allow people to correct or update information about them.

The APPs are contained in Schedule 1 of the Privacy Act. They can be found on the OAIC [website](#).

Comcare may review and update this policy from time to time, to take account of new laws or technology, or changes to Comcare's functions, operations or practices.

This privacy policy is published on Comcare's [website](#). If you would like a copy of this policy in another form, please contact Comcare's Privacy Officer using the contact details at the end of this policy.

# WHAT KINDS OF PERSONAL INFORMATION DOES COMCARE COLLECT AND HOLD?

## COLLECTION OF SOLICITED INFORMATION

Comcare only collects personal information if it is reasonably necessary for, or directly related to, one or more of Comcare's functions or activities. These include functions and activities under the:

- > *Safety, Rehabilitation and Compensation Act 1988* (SRC Act)
- > *Work Health and Safety Act 2011* (WHS Act)
- > *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act)
- > *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS (MI) Act)
- > *Asbestos-related Claims (Management of Commonwealth Liabilities) Act 2005* (ARC Act)
- > *Parliamentary Injury Compensation Scheme Instrument 2016* (the PICS Instrument)

Certain information Comcare collects is 'sensitive information' as defined in the Privacy Act. Sensitive information includes information about a person's health. In particular, information contained in workers' compensation claim records, work health and safety investigation records, asbestos-related claim records, and personnel records, may be sensitive information.

Comcare will usually only collect and hold sensitive information with your consent. However, there are certain circumstances where Comcare is permitted to collect and hold sensitive information without such consent. These circumstances are described in APP 3.4 and include, but are not limited to, where the collection:

- > is required or authorised by or under law
- > will prevent or lessen a serious threat to somebody's life or health, or assist in the location
- > of a missing person
- > is reasonably necessary to allow Comcare to take appropriate action when it suspects unlawful activity or misconduct of a serious nature that relates to Comcare's functions or activities
- > is reasonably necessary to establish, exercise or defend a legal or equitable claim, or for the purposes of a confidential alternative dispute resolution process
- > is reasonably necessary for enforcement related activities, where Comcare is acting as an enforcement body.

## COLLECTION OF UNSOLICITED INFORMATION

Comcare is occasionally provided with personal information which it has not requested or solicited. Where unsolicited information is received by Comcare, within a reasonable period, Comcare will determine whether that information is reasonably necessary for, or directly related to, one or more of our functions or activities. If the unsolicited information does not relate to one or more of

Comcare's functions or activities, subject to the requirements of the Archives Act 1983 (the Archives Act), Comcare will destroy or de-identify the information as soon as is practicable.

# HOW DOES COMCARE COLLECT AND HOLD PERSONAL INFORMATION?

## Collection of personal information

Comcare only collects personal information by lawful and fair means. Collection of personal information by Comcare may occur when:

- > a worker's compensation claim is lodged with Comcare under the SRC Act
- > Comcare seeks information, from people such as a treating health professional, in connection with assessing a worker's compensation claim
- > Comcare, in its support role to the Safety, Rehabilitation and Compensation Commission (SRCC), receives information about workers' compensation claims made by employees of self-insured licensees
- > Comcare receives information, pursuant to the WHS Act, relating to a workplace incident or other risk to health and safety at a workplace
- > Comcare monitors or enforces compliance with the WHS Act
- > Comcare receives allegations or complaints from workers or members of the public via the WHS Help Desk
- > an individual lodges a common law claim against the Commonwealth, or a Commonwealth authority, for which liability has been assumed by Comcare under the ARC Act
- > a worker's compensation claim is lodged with the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority) under the Seafarers Act
- > a worker's compensation claim is lodged with Comcare under the PICS Instrument
- > an individual provides information to Comcare, or its agents, in connection with a job application or employment with Comcare
- > contractors or suppliers are working with Comcare
- > individuals contact Comcare.

Where reasonable and practical, Comcare collects information about you directly from you. However, Comcare may also collect personal information from someone other than you with your express consent, or if it is required or authorised to do so by or under an Australian law or a court or tribunal order.

At or before the time Comcare collects information about you, or as soon as practicable after collection, Comcare will take reasonable steps to notify you or otherwise ensure that you are aware of the matters that are required by APP 5, including, but not limited to:

- > the fact that Comcare has collected the information and the circumstances of the collection
- > the details of the relevant law under which the collection is required or authorised (if any)
- > the main consequences (if any) for you if Comcare does not collect the personal information
- > how you can access and correct information about you, or make a complaint about a breach of the APPs.

Comcare may provide this notification by including privacy notices on our paper-based and online forms.

## **HOLDING OF PERSONAL INFORMATION**

Comcare holds all its records in accordance with the provisions of the Archives Act and relevant records authorities.

Comcare takes all reasonable steps to protect the personal information that we hold from misuse, interference and loss, and from unauthorised access, modification or disclosure. This includes appropriate measures to protect electronic materials, and materials stored and generated in hard copy, and ensuring that contracted service providers are subject to the same strict privacy obligations that Comcare operates under.

Comcare's networks and websites have security features in place to protect the information that the Comcare holds from misuse, interference and loss from unauthorised access, modification or disclosure.

Audits and quality inspections are also conducted from time to time to ensure the accuracy and integrity of information, and that any systemic data quality issues are identified and resolved promptly.

## **STORAGE AND DATA SECURITY**

Electronic and paper records containing personal information are protected in accordance with Australian Government security policies including the Attorney General's Department's Protective Security Policy Framework and the Australian Signals Directorate's Information Security Manual.

Comcare's networks and websites have security features in place to protect the information that the Comcare holds from misuse, interference and loss from unauthorised access, modification or disclosure.

## **DESTRUCTION AND DE-IDENTIFICATION OF PERSONAL INFORMATION**

Personal information that Comcare collects and holds is usually either contained in a Commonwealth record (as defined in the Archives Act) or required to be retained by or under an Australian law. Comcare manages its records (including those that contain personal information) in accordance with the:

- > Archives Act
- > [Administrative Functions Disposal Authority](#)
- > [Commission Management, Safety, Rehabilitation and Compensation Regulation Records Authority \(2015/00245318\)](#)
- > [Work Health and Safety Prevention, Education and Promotion; Work Health and Safety Regulation Records Authority \(2013/00241702\)](#)
- > [Asbestos related compensation claims; Workers' compensation claim management Records Authority \(2010/00322036\)](#)
- > any other relevant records disposal authority.

## **INFORMATION HELD BY CONTRACTED SERVICE PROVIDERS**

Comcare takes contractual measures to ensure that contracted service providers comply with the same privacy requirements applicable to Comcare.

# WHAT ARE THE PURPOSES FOR WHICH COMCARE COLLECTS, HOLDS, USES AND DISCLOSES PERSONAL INFORMATION?

Comcare performs functions and exercises powers in connection with:

- > securing the health and safety of workers and other persons at workplaces under the WHS Act
- > the provision of workers' compensation and rehabilitation under the SRC Act
- > the provision of workers' compensation and rehabilitation under the PICS Instrument
- > the management of the Commonwealth's asbestos-related liabilities under the ARC Act
- > assisting the Seacare Authority to perform its functions and exercise its powers under the OHS (MI) Act, and rehabilitation and compensation arrangements for seafarers under the Seafarers Act
- > assisting the SRCC to perform its functions and exercise powers, including the granting and regulation of self-insured licensees under the SRC Act
- > employment under the Australian *Public Service Act 1999*.

Comcare may collect, hold, use and disclose personal information for the purposes of these functions and exercising these powers. This includes disclosing personal information to third parties who assist Comcare in performing these functions and exercising these powers.

Importantly, exercising Comcare's functions and powers necessitates processes that support ICT products and services which require ICT testing to ensure their security and useability. Comcare may use personal information for ICT testing. However, when dealing with personal information in an ICT testing context, Comcare will usually de-identify that information so that the information can no longer be used to identify you. If personal information is not de-identified, Comcare will deal with personal information collected during ICT testing only where you would reasonably expect this or have consented and strictly in accordance with the Privacy Act.

Where Comcare holds information about you that was collected for a primary purpose (such as administering a workers' compensation claim), it does not require your consent to use and disclose the information for that purpose. However, Comcare will not use or disclose the information for another purpose (a secondary purpose) unless:

- > you have consented to the use or disclosure of the information, or
- > the use or disclosure falls within one of the specific exceptions in APP 6.2. This may occur, for example, where the use or disclosure:
  - is related to the primary purpose of collection, and you would reasonably expect Comcare to use or disclose the information for this secondary purpose
  - is required or authorised by or under Australian law or a court or tribunal order
  - will prevent or lessen a serious threat to somebody's life or health, or assist in the location of a missing person
  - is reasonably necessary to allow Comcare to take appropriate action when it suspects unlawful activity or misconduct of a serious nature that relates to Comcare's functions or activities
  - is reasonably necessary for establishing, exercising or defending a legal or equitable claim
  - is reasonably necessary for the purposes of a confidential alternative dispute resolution process
  - is reasonably necessary for an enforcement related activity conducted by an enforcement body.

Comcare may use personal information to improve the effective management of Comcare's business and the efficient management of claims. This may include Comcare or its contractors using personal information to conduct research, policy development and for internal administrative purposes. Where feasible, the information will be de-identified. De-identified [personal] information may also be used for research, data analysis and educational purposes.

If Comcare notifies you that personal information about you may be used or disclosed for a related secondary purpose, Comcare will consider that you would 'reasonably expect' that your personal information would be used or disclosed for that secondary purpose. Please contact the Privacy Officer if you have any concerns about such uses or disclosures of information about you.

## **WHAT ARE THE MAIN CONSEQUENCES FOR YOU IF COMCARE DOES NOT COLLECT YOUR PERSONAL INFORMATION?**

If Comcare does not collect personal information from you for the purposes of performing one of its functions it may impact the performance of that function.

### **CLAIMS MANAGEMENT**

If you make a claim for compensation under the SRC Act and choose not to provide Comcare with personal information required for your claim, or your express written consent for Comcare to use and/or disclose your personal information to manage your claim, Comcare may not process your claim until you provide the requested information or consent.

If you make a claim for compensation under the SRC Act and do not provide consent for Comcare to collect personal information from your treatment providers, Comcare may exercise its power to require you to undergo a medical examination.

In some instances, your claim may be managed by a contracted service provider under delegated claims services arrangements. You are not able to veto these delegations.

If you do not want information about you to be collected, used or disclosed for managing your claim, you may withdraw your claim.

### **WORK HEALTH AND SAFETY**

If you fail to comply with compulsory requests for information under the WHS Act, a statutory penalty may apply. Comcare does not need consent to use or disclose compulsorily acquired personal information when it is being used or disclosed for the primary purpose of collection.

### **COMCARE (AS AN EMPLOYER)**

If you do not provide relevant personal information in an application for employment with Comcare, Comcare may not be able to process your application.



# HOW CAN YOU ACCESS AND CORRECT PERSONAL INFORMATION THAT COMCARE HOLDS?

Comcare takes all reasonable steps to ensure that the personal information it collects, uses or discloses is accurate, up-to-date and complete.

You can request access at any time to the information about you Comcare holds. You may also ask Comcare to either correct the information or include a statement indicating that the information is inaccurate, out of date, incomplete, irrelevant or misleading. To do so, please contact the Privacy Officer.

Comcare will respond to requests for access or correction within 30 days. No charges apply to requests for access to, or correction of, information about you.

You can also request any document held by Comcare that relates to your worker's compensation claim under section 59 of the SRC Act.

Comcare can decline access to, or correction of, personal information under circumstances set out in the Privacy Act. Where access is refused, Comcare will give you written notice of the reasons for refusal and the mechanisms available to you to dispute that decision.

## WILL COMCARE USE PERSONAL INFORMATION FOR DIRECT MARKETING?

When Comcare undertakes commercial activities, these are subject to the same restrictions on using or disclosing personal information for direct marketing purposes that apply to private sector organisations.

Comcare does not typically use or disclose personal information for direct marketing purposes in connection with our commercial activities. Comcare will only use or disclose personal information for direct marketing purposes, where this is permissible under APP 7. For example, we:

- > obtain your consent to use or disclose information about you for direct marketing purposes if it is practicable, unless you would reasonably expect Comcare to use or disclose the information for direct marketing purposes
- > provide a simple means by which you may easily request not to receive direct marketing communications from Comcare

## WILL COMCARE SEND PERSONAL INFORMATION OVERSEAS?

Comcare is unlikely to disclose personal information to a person who is not in Australia or an external Territory. However, there are instances in which this may occur. For example:

- > if a person has been located outside Australia or an external Territory and is seeking, or has sought, medical attention or undergone rehabilitation activities in relation to a claim
- > where Comcare is investigating a WHS incident that occurred overseas or involved witnesses who are located overseas
- > where Comcare is assessing a worker's compensation claim which involved witnesses who are located overseas

Whenever disclosing personal information to an overseas recipient, Comcare will comply with APP 8.

If you nominate an email account to communicate with Comcare, you acknowledge your email service provider may store information in data centres outside of Australia. By providing Comcare with permission to email information to your nominated address you are consenting to this possibility.

# CAN YOU DEAL WITH COMCARE ANONYMOUSLY?

Your identity is typically relevant to the fulfilment of Comcare’s purpose for collecting, using, holding or disclosing personal information. Most of the time, it is not likely to be practicable for Comcare to deal with you, such as when managing a compensation claim, if you have not identified yourself or have used a pseudonym.

However, in other circumstances, individuals can remain anonymous or use a pseudonym when interacting with Comcare, including when reporting or discussing concerns about suspected fraud relating to workers’ compensation claims, or risks to health and safety at a workplace.

If you are concerned about not being able to deal with us anonymously, you can make an anonymous inquiry by contacting the Privacy Officer and explaining the circumstances.

# HOW CAN YOU MAKE A COMPLAINT ABOUT A BREACH OF THE AUSTRALIAN PRIVACY PRINCIPLES?

You may make a privacy complaint if you consider that Comcare has interfered with your privacy or otherwise breached its obligations under the APPs in relation to the management of information about you.

Any complaints should be in writing, providing as much detail as possible, and addressed to the Privacy Officer by emailing [privacy@comcare.gov.au](mailto:privacy@comcare.gov.au).

Comcare will take reasonable steps to investigate any complaint, and to notify you of the outcome of our investigation within 30 days.

If we do not respond to the complaint within 30 days, or you are not satisfied with the outcome of Comcare’s privacy assessment, you can make a complaint directly to the Office of the Australian Information Commissioner. Further details about how to make a complaint are set out at on the [OAIC website](#).

# HOW CAN YOU CONTACT COMCARE’S PRIVACY OFFICER?

The Privacy Officer can be contacted by:

Telephone	1300 366 979
E-mail	<a href="mailto:privacy@comcare.gov.au">privacy@comcare.gov.au</a>
Post	Privacy Officer Comcare GPO Box 990 CANBERRA ACT 2601

If you require interpreter services, details of how to access these services are available on Comcare’s [website](#).