



## **ROC Privacy Policy**

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**Relevant  
Legislation or  
materials:**

*Fair Work (Registered  
Organisations) Act 2009*

*Fair Work (Registered  
Organisations) Regulations 2009*

*Privacy Act 1988*

*Freedom of Information Act 1982*

*Archives Act 1983*

*ROC Access to Information  
Policy*

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## **About this policy**

The Registered Organisations Commission (**ROC**) was created by the December 2016 amendments to the [Fair Work \(Registered Organisations Act\) 2009](#) (the **RO Act**). The amendments also created the statutory office of Registered Organisations Commissioner (**the ROC Commissioner**) The role of the ROC, in accordance with the RO Act, is to improve the governance of registered organisations – i.e. employer associations and unions – by promoting their efficient operation and high standards of accountability to their members.

The ROC is 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 provide information on the protection of privacy.

This policy applies to our treatment of all personal information, whether it relates to a client, an individual associated with a registered organisation, or another person.

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

- the types of information collected by the ROC;
- how this information is used;
- when it can be disclosed; and
- who it can be disclosed to.

It also includes details on how to seek further information or make a complaint.

## **Overview**

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

- process notifications and reports lodged by registered organisations;
- inquire into and investigate possible contraventions of the RO Act;
- liaise with other agencies in relation to the enforcement and administration of laws;
- take action in courts to address unlawful conduct;
- monitor compliance with conditions placed on organisations and/or office-bearers;
- respond to access to information requests;
- communicate with the public, stakeholders and the media; and
- publish information on our website.

## **Dealing with us anonymously**

In some circumstances, when communicating with us, you can remain anonymous or use a pseudonym. This does not include circumstances where the law requires your identity to be known (e.g. if you are lodging a declaration or other information on behalf of an organisation).

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 address 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.

The 'whistle-blower' provisions in the RO Act also provide protection for you. It is an offence to take action against a person who provides information to the ROC which comes under those whistle-blower provisions.

### **Collecting your personal information**

We collect personal information when it is reasonably necessary for, or directly related to, our functions or activities under the RO and other relevant legislation.

The types of personal information (including sensitive information) that we collect include:

- names, addresses, telephone numbers and email addresses;
- details of loans, grants and donations made by registered organisations;
- statements taken in the course of conducting inquiries and investigations under the RO Act which identify individuals;
- information in relation to employment, qualifications and criminal record (for example in applications to become a registered auditor);
- letters of offer and employment contracts;
- financial records; and
- information in relation to professional registration, accreditation, or criminal records.

We only collect personal information using lawful and fair means.

### **Collecting personal information directly from you**

We collect personal information about you when you give it to us, including when:

- you contact us by phone, email or through our website;
- you are making an application (e.g. to be registered as an auditor or applying to access documents);
- you request assistance from us;
- you register for email updates or use subscription services;
- we conduct inquiries or an investigation.

### **Collecting your personal information from others**

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

- registered organisations provide information about their officers and others with whom they interact;
- 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 'open source' information such as internet searches, articles, public databases and social media.

As well as requesting the voluntary production of information, the ROC is also authorised under the RO Act to require persons and organisations to provide information, documents and other records that may contain your personal information (e.g. membership records).

### **Sensitive information**

Sometimes we may need to collect sensitive information about you with your consent, when authorised by law or in accordance with the Privacy Act. This may include information about your employment, your membership of an organisation or trade union, or your criminal record.

### **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 operating system used (e.g. Windows, Mac), the top-level domain name (e.g. .com, .gov, .au), the date and time of your visit, the pages accessed, the information downloaded and the type of internet browser you used (e.g. Internet Explorer).

This process does not record any personal data about individuals.

The information collected is used for system administration purposes and lets the ROC analyse statistics on how the website is used. This information can assist in improving our online products and services.

### **Email contact with the ROC or subscribing to ROC email lists / alerts**

The ROC maintains contacts lists, which include contact information about individuals and organisations. The ROC may use these contacts lists to distribute information, monitor or assess client satisfaction with services, or for research.

If you subscribe to an email list or subscription service in relation to the ROC and/or its activities, the ROC will:

- record your email address;
- only use the email address for the reasons that you provided it;

- not add the email address to a mailing list unless you request it;
- not give the email address to any third party unless the client gives the ROC permission or the disclosure is authorised by law.

We only use this information to send you regular updates on our activities and to administer these lists.

If a person gives the ROC personal information, for example via an online form, the ROC will only:

- Collect it by lawful and fair means;
- Use it for lawful purposes; and
- Collect it with the person's consent (if applicable).

Sometimes the ROC may collect personal information from a third party or from a publicly available source such as a website or telephone directory. The ROC might collect this information if it is considered that the individual, or the organisation that they work for, may like to receive information. The ROC would only contact individuals or organisations in their work capacity (including if they were a former official).

The ROC does not give personal information about an individual to other agencies, organisations or anyone else without consent unless:

- the individual would reasonably expect, or has been told, that information of that kind is usually passed to those agencies, organisations or individuals; or
- the disclosure is required or authorised by law.

Examples of these circumstances are discussed in further detail in this policy, including in the sections on Subpoenas and Freedom of Information (FOI) applications.

When no longer required, personal information in contacts lists is destroyed in a secure manner or deleted.

The ROC will not identify a person or their browsing activities except if there is an investigation. In that case, a law enforcement agency may exercise powers using a warrant to look at the ROC's logs.

While the ROC will work to ensure a secure web environment, including encryption of messages, there are risks that are inherent with providing information via the internet.

### **Social networking services**

We may 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.

### **Records of enquiries**

The ROC maintains databases for registering and storing information related to telephone and email enquiries received by the ROC.

The personal information in the databases relates to those individuals and organisations that have made enquiries and includes names, telephone numbers and email addresses. The personal information on the enquiries database is used for the purpose of recording and managing enquiries. In particular, it is used for making contact with those who have made enquiries.

The personal information in the databases is disclosed to those persons or organisations that have made enquiries for the purpose of handling or responding to their enquiries.

Personal information is stored in databases that can only be accessed by registered users for the purpose of working on enquiries. Staff members have access to the enquiries databases on a need-to-know basis.

### **ROC Commissioner**

The ROC may hold personal information about the ROC Commissioner and staff assigned to assist the ROC Commissioner. However it does not disclose this information to other agencies, organisations or individuals without consent, unless the disclosure is required or authorised by law.

### **Storage and security of personal information**

The ROC uses a range of measures (both physical and electronic) to ensure that personal information will only be accessed by ROC employees or contractors on a need to know basis, and to protect against the loss, misuse, interference, unauthorised access, modification or disclosure of personal information. In addition to policies, these measures include a secure network, password protection, securing paper files and physical access restrictions.

We destroy or archive personal information in a secure manner when we no longer need it, in accordance with our Records Authority.

### **Using and disclosing personal information**

Personal information will be dealt with in accordance with the requirements of the Privacy Act, the *Archives Act 1983* and other relevant legislation. The information that you provide may be disclosed to ROC staff, other parties in your matter, or government bodies for the purpose of resolving the issues raised.

We will only use and disclose personal information for:

- the primary purpose for which it was collected;
- purposes related to the primary purpose and which are within reasonable expectations;
- other purposes to which you have consented; or
- other purposes permitted by the Privacy Act.

Some common situations where we use or disclose personal information are listed below.

### **Our regulatory activities**

We may need to use your personal information when we perform functions or exercise powers under the RO Act or other legislation.

For example, if you request assistance from us, the personal information that you provide may be used to enquire into the matter. 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 an investigation, the ROC may give information relating to one person to the other party (for example, the registered organisation) for the purpose of investigating the matter and contributing to procedural fairness.

However, the ROC will redact (i.e. 'black out') information identifying personal characteristics such as date of birth and personal home addresses.

### **Publishing decisions made by the Registered Organisations Commission.**

Subject to any confidentiality orders, the ROC intends to publish decisions and orders made by it. This is in keeping with the ROC's commitment to transparency and accountability.

Such decisions would ordinarily be published on the ROC website.

It is possible that decisions of the ROC may be re-published on other websites such as the Australian Legal Information Institute (AustLII) website and databases. Information about AustLII's privacy practices is available at [www.austlii.edu.au/austlii/privacy.html](http://www.austlii.edu.au/austlii/privacy.html).

### **Publishing information on our website**

As part of our function as a transparent and accountable regulator, the ROC will regularly publish, on its website, information relevant to the governance of registered organisations. This includes:

- [Annual Returns](#) lodged by registered organisations;
- [Financial Reports](#) lodged by registered organisations;
- Correspondence in relation to these reports and returns;
- Details of persons accredited as [registered auditors](#);
- Details in relation to [Elections](#) required to be conducted;
- [Notifications](#) of changes to records;
- [Officer and related party disclosure statements](#); and



- [Decisions](#) of the ROC Commissioner.

Before information is published to the ROC website, staff review the material in order to redact any personal contact details as well as any identifying information such as dates of birth, personal account details and residential addresses.

### **Referral to law enforcement authorities**

We may be required to give information to other Commonwealth, State or Territory bodies when it is related to the administration or enforcement of a law. For example, we may need to give information to the Police if we suspect that a person has committed a criminal offence.

Law enforcement agencies will also have access to documents available to members of the public.

When we make such disclosures, it will be in accordance with the Australian Privacy Principles contained in the Privacy Act.

### **Disclosure to service providers**

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

We also may use external lawyers to provide advice about matters and to represent us in court. The information we provide to our external lawyers often includes personal information.

### **Enquiries, education and business improvement**

We may use your personal information to:

- contact you about an enquiry 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 (FOI) requests**

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

We will handle FOI requests in accordance with our [Access to Information Policy](#), which is available at [www.roc.gov.au](http://www.roc.gov.au).

## **Collection of your personal information – FOI Act and Privacy Act**

The ROC collects information, including personal information that you provide about yourself and others, when you:

- make an enquiry;
- apply for access to information under the FOI Act or Privacy Act; or
- make a submission in relation to an FOI request.

The ROC collects this information for the purpose of dealing with your enquiry or processing your request or submission under the FOI Act or the Privacy Act.

If you apply for access to information under the FOI Act or Privacy Act, the ROC may collect personal information about you from third parties, for example, if the party makes a submission in response to a consultation process regarding your FOI request.

Generally, you are not required to provide your name to the ROC when making an enquiry or application under the FOI Act or Privacy Act. For example, you may choose to remain anonymous or use a pseudonym. However, in some circumstances your personal information will be required to properly deal with your enquiry or application. The consequences for you if the ROC did not collect your personal information for the above purposes may include that:

- the ROC would not be able to deal with your enquiry or application under the FOI Act or Privacy Act because it would lack the necessary information; or
- the ROC would not be able to take your submission into consideration in the decision to release documents under the FOI Act.

If you have not provided any contact details, the ROC:

- would not be able to contact you to respond to your enquiry; and
- would not be able to treat your application as a valid FOI request because the FOI Act requires that the request give details of how notices under the FOI Act may be sent to the applicant (for example, by providing an email address).

## **Disclosure of your personal information**

Where practicable, the ROC will not disclose personal information you provide in your enquiry or FOI request to external entities. The Commission will also take steps to limit the amount of personal information about you that is disclosed as part of any consultation process regarding your FOI request.

If you provide a submission in response to a consultation process under the FOI Act, the ROC may disclose personal information you provide in your submission as part of the access decision required to be provided to the FOI applicant.

The ROC may disclose personal information about you when it is required or authorised to do so pursuant to:

- a court or tribunal order for production of documents; or
- an Australian law (for example, disclosure under the FOI Act).

### **Subpoenas**

From time to time, the ROC may receive a subpoena, summons or 'notice to produce', issued by a court or tribunal, to provide documents as part of court or tribunal proceedings. These are, in effect, orders for documents and the ROC has legal obligations to comply with such orders. Disclosure of information will be in accordance with our [Access to Information Policy](#).

The information we provide in response to subpoenas, or court or tribunal orders, often includes personal information. When dealing with your information for these purposes, we will comply with the Privacy Act and the associated Australian Privacy Principles.

### **Overseas disclosure of personal information**

It is unlikely that we would be required to disclose your personal information to people or organisations located overseas. However, in limited circumstances, we may be required to disclose information to a person, such as another party in a matter, who is outside Australia. If we are required to do this, we will make the disclosure in accordance with the Privacy Act. This includes seeking to ensure that the overseas recipient will not breach the Australian Privacy Principles. Otherwise, we will seek your express consent to the disclosure.

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](#).

### **What happens if there is a serious privacy breach?**

With the enactment of the *Privacy Amendment (Notifiable Data Breaches) Act 2017*, agencies such as the ROC must notify the Office of the Australian Information Commissioner (OAIC) and affected individuals where there has been:

- unauthorised access to;
- unauthorised disclosure of; or
- loss of

personal information that a reasonable person would conclude is likely to result in serious harm to one or more individuals.

The notification must be made as soon as practicable and must include a description of the breach, the kind of information concerned and the recommended response to deal with the incident. Failure to notify breaches may make the agency liable to a penalty under the Privacy Act.

### **Special laws applying to tax file numbers**

Although it is unlikely that you would need to provide your Tax File Number to the ROC, 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 require you to give us your tax file number. If your tax file number is in the documents you give us, we cannot record it, use it, or otherwise disclose it.

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 that the ROC holds about you and/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.

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.

There are no fees for requesting access to your personal information.

If you request an amendment or annotation of your personal information it must be in writing and specify, as far as practicable:

- the document containing the record of personal information that is claimed to require amendment or annotation;
- the specific information that is claimed to be incomplete, incorrect, out of date or misleading;
- whether the information is claimed to be incomplete, incorrect, out of date or misleading, and your reasons for so claiming; and

- the amendment or annotation that would make the information complete, correct, up to date or not misleading.

You will also need to provide an address to which we can reply to your request.

## **Complaints**

You can complain to us about the handling of your personal information by emailing us at [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au).

We will make all attempts to respond to and deal with your complaint promptly. 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 Office of the Australian Information Commissioner. For more information, visit [www.oaic.gov.au](http://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 at:

Privacy Officer

Registered Organisations Commission

GPO Box 2983

Melbourne VIC 3001

[regorgs@roc.gov.au](mailto:regorgs@roc.gov.au)