



Privacy Policy

Protecting Privacy

The Federal Circuit Court of Australia (“the Court”) values the privacy of everyone whose information it holds. This Privacy Policy tells you about the Courts’ approach to the protection of the personal information it holds, including how it protects and uses it, your rights to see it and the ways you may obtain further help. This Privacy Policy is intended to comply with the *Privacy Act 1988*.

Why does the Court hold personal information?

When we refer to “personal information” we mean information about a person from which his or her identity can be worked out.

The Court holds personal information and use it for two main purposes:

- to help resolve and determine disputes – this is called the “judicial purpose”; and
- in relation to matters of administration – this is the “administrative purpose”.

The Judicial Purpose

The Court exercises jurisdiction in family law and general federal law. In the general federal law area, the Federal Court of Australia provides registry and other services for this purpose including holding records of the Federal Circuit Court relating to cases.

The Court holds information for the judicial purpose in its records relating to cases. These are held in case files and other paper records, in the form of sound recordings and in the Court’s case management computer system “Casetrack” and other electronic records. Closed circuit television records may also be retained (see below). The case file for a case contains all of the documents filed in the case and other papers related to the case. Casetrack contains information needed to facilitate the exercise of the Court’s judicial power such as details of the parties and others involved in a case, records of court events and arrangements for them.

Access to a Court’s case records?

The Privacy Act and Freedom of Information Act do not apply to documents and information of a court unless they are of an administrative nature. They do not apply to documents and information the Court holds for its judicial purpose. Instead, this information is protected under the *Family Law Act 1975*, the *Federal Circuit Court of Australia Act 1999* and the *Federal Circuit Court Rules 2001*.

Some special confidentiality provisions also apply to particular types of cases.

For example, section 121 of the *Family Law Act 1975* limits publication of reports of proceedings and of lists of cases in the family law jurisdiction. The section sets out a number of exceptions. One of these is where a court authorises publication of accounts of proceedings, including on the Internet. Other than in exceptional cases, or permitted exceptions to section 121, the Court publishes reports of family law cases in de-identified form. Similar restrictions operate in relation to child support cases.

There are also restrictions on access to Court documents in the General Federal Law jurisdiction. Under the *Migration Act 1958*, the Federal Circuit Court cannot publish the name of anyone who has applied for a Protection Visa. Some additional restrictions on access to some Court documents are also imposed by the *Admiralty Rules 1988* and in certain corporations and bankruptcy matters.

The Court may by order impose additional restrictions if the need to do so arises.

Division 2.3 of the *Federal Circuit Court Rules 2001* strictly limits those who are allowed access to the Court's records of family law cases.

Division 2.3 of the *Federal Circuit Court Rules 2001* also contains a different access regime for the Federal Circuit Court's records of General Federal Law cases.

Section 56 of the *Family Law Act 1975* requires the Court to provide a certificate as to a divorce order to anyone who applies for it. These certificates may be provided to persons in other countries.

Because of the limited right to access some case records, normally this will not be able to be done anonymously or under a pseudonym.

The Administrative Purpose

Information we hold for administrative purposes is collected in the day-to-day running of the Court. It includes information about Court staff, about those who supply it with goods and services, about complaints and feedback and about security matters. It also includes questions on some court forms about clients' backgrounds and need for interpreters. If the Court did not hold this information, it would be unable to manage its affairs, respond to complaints and feedback, obtain goods and services, pay suppliers and staff, secure the safety of its staff and others on and attending its premises and sometimes to make necessary arrangements for Court events. This Policy deals below with information collected for certain specific purposes.

The Commonwealth's *Privacy Act 1988* and Freedom of Information Act apply to this information. This means that the Court is treated as an Agency under them. The [Australian Privacy Principles](#) in the Privacy Act together with the *Privacy (Australian Government Agencies – Governance) APP Code 2017* (APP Code) govern the collection, storage, disclosure and use of this information. The Freedom of Information Act may allow access to it. The legislation may allow a right of correction of such information in certain circumstances. These matters are outlined further below.

Access to the Courts' administrative documents

If you wish to see court documents of an administrative nature then you will need to ask. Such requests may be made to the Deputy Principal Registrar by email to customer.service@federalcircuitcourt.gov.au or letter directed to the Deputy Principal Registrar, Federal Circuit Court of Australia, GPO Box 9991, Melbourne Vic 3000. You will need to give as much detail as possible of what you are seeking to enable it to be identified.

Normally such a request will be handled under the Freedom of Information Act. If this applies and you need to make a request under it, the Court will tell you. This will involve you making a request in accordance with the Act that is sufficiently clear for the documents to which it refers to be identified. Fees may be applicable and if they are, the Court will tell you about them. Your request will be considered along with any relevant grounds for exemption of the documents. If they relate to any other

person, then that person will be asked for his or her views on your request and the Court will consider them. Note that the Act does not require the Court to create a new document in order to satisfy a request under the Act.

The FOI scheme does not apply to documents that are not of an administrative nature. It therefore does not apply to documents about the judicial process or to matters of judicial conduct.

Access may be given in a number of ways, such as a copy of a document or an opportunity to see it. However, if your request is refused, then you may seek internal review within the Court and, if you are still dissatisfied, seek review of the Court's decision from the Administrative Appeals Tribunal.

You may also ask under the *Privacy Act 1988* to see personal information about yourself held for the administrative purpose. A right of correction may exist in relation to such information. Such requests may be made to the Courts' Privacy Officer by email to privacy@federalcircuitcourt.gov.au or letter directed to the Privacy Officer, Federal Circuit Court of Australia, GPO Box 9991, Brisbane QLD 4001. We will allow changes to this personal information unless we consider that there is a sound reason in fact or law not to do so. If we do not agree to make requested changes, you may make a statement about the requested changes and in most cases we will attach this to the record or hold it in our records.

Can others see my personal information held by the Court?

Because the Freedom of Information, or FOI, scheme applies to some documents the Court holds, we may give access to those documents under the scheme. The FOI scheme allows access to be given in a number of possible ways, including by rights of inspection or by being given copies. FOI contains protections for people's private information and if those affected do not agree with the Court's decision, there are rights of review. Access in limited circumstances may also be given outside the FOI scheme.

The Court uses external contractors to help it in relation to the judicial purpose and the administrative purpose. Where it does so, it provides personal information to them as required to enable them to provide services to the Court.

Information about a case or administrative information may be used to help evaluate and improve the Court's services or to contact people involved in cases for research or an evaluation. Such research may be conducted by people outside the Court, such as academic researchers. If this arises, the Court may contact you and ask if you wish to take part. Your choice whether or not to take part in any research is absolutely free and will not affect any matter you have before the Court. It is not compulsory to take part in research or an evaluation if we ask you to do so, and you may refuse.

Where a lawful request for information or documents is made to a court by a person or body with the authority to obtain the information requested, the Court will supply it. The Court may also provide information on request for law enforcement purposes. This applies to information the Courts hold for both administrative and judicial purposes. A court may refuse to provide information held for its judicial purpose if doing so will interfere with its own administration of justice.

The Court is not likely to disclose information or documents of an administrative nature to overseas recipients other than in accordance with rights of access under the Freedom of Information and Privacy Acts. As these events will depend on lawful requests having been made, the Court cannot say in what countries the recipients are likely to be located.

How we protect personal information

The Court takes reasonable steps to protect the personal information it holds against loss, unauthorised access, use, modification or disclosure and against other misuse. As a general practice, information provided to us is used for the purposes for which it was provided. Information to which the *Privacy Act 1988* applies is collected, used, stored, updated and otherwise maintained in accordance with that Act and the APP Code.

Physical protections for records include the Court's own premises being secured against unauthorised access and physical security for hard copy records. The measures taken for soft copy records also include storing electronic files in secure facilities, encryption of data, regular backups of data held, audit and logging mechanisms and physical access restrictions.

When no longer required, personal information held in relation to any dealing will be disposed of securely or deleted. This will be in accordance with the Administrative Functions Disposal Authority (AFDA) issued by National Archives of Australia. Alternatively, deletion or disposal may be in accordance with the relevant Records Authority agreed with the National Archives.

Security records

As a security measure the Court operates Closed Circuit Television (CCTV) in most premises we operate and may retain copies of footage recorded. The images of people in the precincts of the Court, and in some cases adjacent to them, may be recorded. These records are used to help secure the safety of persons and property and to monitor compliance with the law and security procedures. They are made available routinely to external security contractors for these purposes and to police where law enforcement issues arise. If the Court did not do this, it may be unable to secure the safety of persons or property in connection with their normal operations.

The Court also makes and retains records of reports made to it of events giving rise to security concerns for the Court, their personnel and those doing business with them or attending their premises. These may simply be in the form of a request for a safety plan for a person attending the Court for a court event. They may also describe a particular security incident including the conduct of those involved.

The Court does not generally solicit specific reports from persons who are not court personnel although those who have safety concerns are invited to bring those concerns to the Court's attention. This is to ensure proper access to justice for all. Also, reports by court personnel may be required to be made under the Court's occupational health and safety obligations according to law.

These records may describe the behaviour of individuals and are used to help secure the safety of persons and property and to monitor compliance with the law and security procedures. They are made available routinely to external security contractors for these purposes and to police where law enforcement issues arise. If the Court did not do this, it may be unable to secure the safety of persons or property in connection with their normal operations.

Electronic and Other Online Dealings

Emails

If you send us an email message, we will record your email address and may retain your message as correspondence. Even if we delete it, a copy may be retained in backup records. Your message as sent to us may include metadata.

Websites

The Court supports websites which provide information about their operations.

In administering these websites, court staff adhere to the *Guidelines for Federal and ACT Government Websites* developed in March 2003 by the Australian Privacy Commissioner.

In addition, the Commonwealth Courts Portal is an initiative of the Family Court of Australia, Federal Court of Australia and Federal Circuit Court of Australia. The Portal, available at www.comcourts.gov.au is a platform which enables access to a broad range of information and services from the courts including electronic filing of court documents. Privacy in the Portal in respect of specific types of matters is dealt with below.

Any privacy concerns about the Court website should be directed to the Court's Privacy Officer by emailing privacy@federalcircuitcourt.gov.au or by writing to: Privacy Officer, Federal Circuit Court of Australia, GPO Box 9991, Brisbane QLD 4001, Australia.

Site visit data

You can visit our site without telling us who you are or revealing other personal information unless you choose to do so. If you visit our websites, we record:

- the user's server address
- the user's top level domain name (e.g. .com, .gov, .au, .uk, etc.)
- the date and the time of the visit to the site
- the type of browser used
- the operating system
- the screen resolutions
- the previous site visited
- the search engines and queries used to access this site, and
- the device used to access the site.

No attempt is made to identify individual users or their browsing activities unless an email address is provided by a user or in the unlikely event of an investigation, where a law enforcement agency may seek to inspect the log file.

Cookies

A cookie is a small piece of information that is placed on the user's hard drive while navigating a website. When a user revisits a website, the cookie allows that site to recognise the user's browser.

Google Analytics is used to obtain statistics on how the website is used. Google Analytics is a web analytics service provided by Google, Inc. (Google) which uses 'cookies' to collect standard Internet log information and visitor behaviour information in an anonymous form. The information generated by the cookie about use of the relevant website is transmitted to and stored by Google on its servers outside of Australia. Google uses this information to compile reports on website usage, such as volume of new and return visitors, which pages are the most popular and sources of website traffic. No personally identifying information about any user is recorded or provided to Google.

Users can opt out of Google Analytics if they disable or refuse the cookie, disable JavaScript or install the opt-out browser add-on available from the Google Analytics website along with details on installing and uninstalling that add-on.

Links to other sites

The website contains links to other sites. The Court is not responsible for the content and the privacy practices of other websites and encourages users to examine each site's privacy policy and make their own decisions regarding the accuracy, reliability and correctness of material and information found.

Email subscription services

The Court offers email subscription services – Daily Court Lists, content updates and judgment updates. When a user subscribes to a service, the Court collects the subscriber's name and email address.

Data security

The Internet is an insecure medium, and users should be aware that there are inherent risks in transmitting information electronically.

Information submitted unencrypted via email may be at risk of being intercepted, read or modified. Users who are concerned about the security of any email messages can post them to the relevant registry or office of the Court found on the Courts' website or by calling the telephone numbers found on the websites.

Search service

Search terms are stored for reporting and service improvement purposes. Users' searches are not linked to any personally identifying information.

Family Law matters – Privacy in the Commonwealth Courts Portal

Users must register to use the Portal and in order to do so, must supply some personal information such as their name, mailing address, phone numbers and email address. This information is used only to identify the user as entitled to participate in the Commonwealth Courts Portal and enable the user to do so. It will not be disclosed to a third party unless required by law.

The following information is recorded to provide users with support if required:

- as previously noted cookies are used for user authentication;
- browser and operating system information, and
- email address information.

The Commonwealth Courts Portal uses the Australian banking and electronic commerce industry standard Secure Socket Layer (SSL) security technology. SSL is cryptography technology that uses special codes – 128 bit keys – that encrypt messages sent over the Internet. SSL encryption turns a message into an unintelligible string of characters and symbols and makes it virtually impossible to decipher. In addition, if a message is somehow tampered with, SSL technology will detect the tampering and reject the message.

The Courts do not access or store users' credit card details.

General Federal Law matters - Privacy in the eLodgment and eCourtroom sections of the Courts' websites

In order to lodge case-related documents online or to participate in a Court's eCourtroom, users must supply some personal information - such as their name, mailing address, phone numbers and email address. This information is used to enable that user to eLodge documents and/or contribute to an eCourtroom discussion through the eLodgment application and will not be disclosed to any third party unless required by law.

The following information is recorded for the purpose of providing users with support if required:

- major and specific activity under a user name, e.g. Login, Create Template, Save Incomplete Lodgment, contribute to an eCourtroom discussion, Log out etc
- uploaded documents as part of the lodgment process and failed attempts to upload documents are logged in error logs
- as previously noted, cookies are used for form authentication and for browser preferences for display of results, i.e. show/hide a column, resize of columns. None of these cookies contain user information
- browser, operating system and compilers information is recorded for troubleshooting
- email address information is only used for the purpose for which users provide it.

The electronic filing section of the Courts' websites (eLodgment) uses the Australian banking and electronic commerce industry standard Secure Socket Layer (SSL) security technology. SSL is cryptography technology that uses special codes - 128 bit keys - that encrypt messages sent over the Internet. SSL encryption turns a message into an unintelligible string of characters and symbols and makes it virtually impossible to decipher. In addition, if a message is somehow tampered with, SSL technology will detect the tampering and reject the message.

Users who lodge documents online requiring payment of a fee enter their credit card details into electronic forms which are then encrypted by SSL technology. This is then securely transmitted via the Court's eLodgment service provider (Creative Digital Technology) to the Court's merchant facility provider. Neither the Court nor its technology service provider store users credit card details at any time during this process. This facility provides users with the same level of security as if they were using an automatic teller machine (ATM) or performing an EFTPOS transaction.

A user may, however, choose to save their credit card details within a template. If so, those details are stored in the eLodgment application. Security of this information is maintained in line with the Payment Card Industry Data Security Standards.

General Federal Law matters - Security alerts in eServices (online) pages of the Court's website

The eServices (online) pages of the Court's website have been secured for users' privacy and protection. As a user moves about these secure areas their browser, depending upon personal settings and options, might present a security alert. Security alerts differ depending on browsers and their configuration but their purpose is simply to alert a user to the fact that they are entering, or leaving a secure area. Users should not be alarmed by the appearance of these alerts. Users can ascertain whether they are in a secure session by checking the status of the "security" padlock on their browser. The session is secure only when the padlock icon shows a closed padlock.

"Thawte Server CA" issues certificates securing the sites. Users can verify the source of the certificates by viewing them.

Data Breaches

Data breaches are managed in accordance with the Federal Court Data Breach Response Plan. In accordance with that plan, In the event of a data breach, including a data breach that is not a notifiable data breach, consideration must be given by each of the Privacy Officer, the Data Breach Response Team and the CEO/Principal Registrar to notifying affected individuals, stakeholder organisations and the public. Any public announcement of a data breach must be timely, direct and explicit. Consideration must also be given to consulting external bodies as to the way that persons potentially affected by a data breach should be notified.

In addition, consideration must always be given to voluntarily notifying a data breach to the Office of the Australian Information Commissioner, notwithstanding that it is not an eligible data breach under the Data Breach Notification scheme in the Privacy Act.

How can I complain about a breach of the Australian Privacy Principles?

If you wish to complain about a breach of the Australian Privacy Principles, you may do so by email to privacy@federalcircuitcourt.gov.au or by letter directed to the Privacy Officer, Federal Circuit Court of Australia, GPO Box 9991, Brisbane Qld 4001.

We will handle your complaint in accordance with the *Privacy Act 1988*. We will acknowledge it within 10 days and within 30 days tell you what we are going to do about it. You will be told about any investigation of it and the outcome of that investigation as soon as practicable.

Where can I get help about these matters?

If you wish to be provided with a copy of this policy you may do so by copying it from this website, by email to customer.service@federalcircuitcourt.gov.au or by letter directed to the Privacy Officer, Federal Circuit Court of Australia, GPO Box 9991, Brisbane Qld 4001. You may also call our National Enquiry Centre on 1300 352 000.

You can seek your own legal advice about these matters. Also, if you wish to ask any questions about the things this policy covers, you may do so by email to customer.service@federalcircuitcourt.gov.au or by letter directed to the Privacy Officer, Federal Circuit Court of Australia, GPO Box 9991, Brisbane Qld

4001. The Court can provide you with general information but you must decide yourself whether that is sufficient for your purpose. The Court cannot provide you with legal advice or representation. For questions about privacy matters generally, you may also contact the Privacy Commissioner at the Office of the Australian Information Commissioner on 1300 363 992 or www.oaic.gov.au.

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