



Privacy Policy

Protecting privacy

The Federal Circuit and Family Court of Australia (the FCFCOA) values the privacy of everyone whose information it holds. This Privacy Policy informs you of the FCFCOA's approach to the protection of the personal information it holds, including how it secures 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* (the Privacy Act).

Why does the FCFCOA hold personal information?

When we refer to 'personal information', we mean information about a person from which his or her identity can be determined.

The FCFCOA holds and uses personal information 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 FCFCOA 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 relating to general federal law and migration cases in Division 2 of the FCFCOA.

The FCFCOA holds information relating to cases in its records for the judicial purpose. 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 FCFCOA'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 1982* (the FOI Act) do not apply to documents and information of a court unless they are of an administrative nature. As such, these acts 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 and Family Court of Australia Act 2021*, the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* (Family Law Rules) and the *Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2021* (GFL Rules).

Broadly, Part 15.4 of the Family Law Rules strictly limits those who are able to access the FCFCOA's family law records and Rule 2.11 of the GFL Rules provides who may access general federal law records.

However, there are additional confidentiality provisions that 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. This section sets out a number of exemptions, such as circumstances in which a court authorises publication of accounts of proceedings, including on the Internet. Other than in exceptional cases,

or permitted exemptions to section 121, the FCFCOA publishes reports of family law cases in de-identified form. Similar restrictions operate in relation to child support cases.

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

There are also restrictions in accessing court documents in the general federal law jurisdiction. Under the *Migration Act 1958*, the FCFCOA 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 FCFCOA may, by order, impose additional restrictions if the need to do so arises.

Due to the limited right to access some case records, requests for access will not generally be able to be done anonymously or under a pseudonym.

The administrative purpose

Information the FCFCOA holds for administrative purposes is collected in the day-to-day running of the Court. It includes information about court staff, those who supply it with goods and services, complaints and feedback, and security matters. It also includes information collected from questions on some court forms about clients' backgrounds and need for interpreters. If the FCFCOA 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, or make necessary arrangements for court events. How this policy deals with information collected for certain specific purposes is addressed below.

The Commonwealth's Privacy Act and FOI Act apply to information of an administrative purpose. The FCFCOA is subsequently treated as an Agency under the Acts. 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 information of an administrative purpose. The Privacy and FOI Acts allow for the right of correction and requests for access to documents, respectively. These matters are outlined further below.

Access to administrative documents

If you wish to access documents of an administrative nature held by the FCFCOA, then you will need to make a formal request for these documents. Such requests may be made to the Deputy Principal Registrar by email to customer.service@fcfcoa.gov.au or letter directed to the Deputy Principal Registrar, Federal Circuit and Family Court of Australia, GPO Box 9991, Canberra ACT 2601. You will need to give as much detail as possible of the document/s you are seeking to enable it to be identified.

Normally, such a request will be handled under the FOI Act. If the FCFCOA directs you to make a freedom of information request, the request must fulfil the requirements of the FOI Act and must sufficiently identify the document/s being sought. It is important to note that requests can only be made for existing documents, as the FOI Act does not require the FCFCOA to create a new document in order to satisfy a freedom of information request. Your request will be assessed in accordance with the provisions of the FOI Act, with due consideration being given to any relevant grounds for exemption as articulated in the FOI Act. One such exemption is that the FOI Act 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. Though this is rarely the case, fees may be applicable to requests made under the FOI Act. Should this be the case, you will be notified of these fees by the FCFCOA.

In the event that your request is refused, you may seek internal review. This review would entail another authorised individual within the FCFCOA reviewing your request under the FOI Act, and the response provided to you, before determining whether they agree with the original decision or believe the original decision should be varied. If you are still dissatisfied following the internal review, you are able to seek review of the FCFCOA's decision from the Office of the Australian Information Commissioner.

An individual may request access to personal information held by the FCFCOA about them for administrative purposes under the Privacy Act. Such requests may be made to the Privacy Officer by email to privacy@fcfcoa.gov.au or letter directed to the Privacy Officer, Federal Circuit and Family Court of Australia, GPO Box 9991, Brisbane QLD 4001. A right of correction may exist in relation to such information. The FCFCOA will allow changes to be made to personal information, upon request, 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 FCFCOA?

As the Freedom of Information scheme (FOI scheme) applies to some documents held by the FCFCOA, access may be granted to select documents under that scheme. These documents can be accessed through rights of inspection or through the provision of copies of the document. The FOI Act contains protections for an individual's private information. For example, if a document identified within the scope of a request made under the FOI Act contains the personal information of an individual, that individual will be approached and given the opportunity to object to their personal information being released. The FCFCOA will then decide whether or not to provide the document. Ultimately, if the affected individual disagrees with the FCFCOA's final decision, they have rights of review.

In very limited circumstances, access to documents may be granted outside of the FOI scheme. The FCFCOA uses external contractors to help with the maintenance, collection and retention of documents of the Court used for both the judicial purpose and the administrative purpose. Where it does so, the FCFCOA is sometimes required to provide personal information to them, to enable them to provide services to the Court. However, these instances are closely monitored.

Information about a court matter or administrative information may be used to help evaluate and improve court services, or to contact people for research and evaluation purposes. In some circumstances, the FCFCOA may authorise outside agencies to conduct research pertaining to various aspects of the Court, such as a pilot project run by the Court. In these instances, the FCFCOA may contact you and seek your consent to participate in these studies. Your choice to participate is completely removed from, and will not affect, any matter you have before the Court. It is not compulsory to participate, and you are free to refuse to do so.

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

The FCFCOA 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 FOI Act and Privacy Act.

How we protect personal information

The FCFCOA takes reasonable steps to protect the personal information it holds against misuse, loss, and unauthorised access, use, modification or disclosure. As a general practice, information provided to the FCFCOA is used for the purposes for which it was provided. Information to which the Privacy Act 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 done in accordance with the Administrative Functions Disposal Authority, issued by National Archives of Australia. Alternatively, deletion or disposal may be done in accordance with the relevant Records Authority agreed with by the National Archives.

Security records

As a security measure, the FCFCOA operates Closed Circuit Television in most premises and has the ability to retain copies of recorded footage. 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 its normal operations.

The FCFCOA 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 FCFCOA 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 routinely made available to external security contractors for these purposes, and to police where law enforcement issues arise. If the FCFCOA did not do this, it may be unable to ensure the safety of persons or property in connection with its normal operations.

Electronic and other online dealings

Emails

If you send the Court an email, 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 FCFCOA and the Federal Court of Australia support websites that provide information about their operations.

In administering these websites, court staff adhere to the *Guidance for agency websites: 'Access to information'* web page of the Australian Information Commissioner and *Requirements for Australian Government websites* by the Digital Transformation Agency.

In addition, the Commonwealth Courts Portal (the Portal) is an initiative of the Federal Court of Australia and the FCFCOA. The Portal, available at www.comcourts.gov.au, is a platform which enables access to a broad range of information and services from the Court 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 FCFCOA website should be directed to the Court's Privacy Officer by emailing privacy@fcfcoa.gov.au or by writing to: Privacy Officer, Federal Circuit and Family 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 FCFCOA 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 FCFCOA offers email subscription services, which provide Daily Court Lists, content updates etc. When a user subscribes to a service, the FCFCOA 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.

Unencrypted information submitted via email may be at risk of being intercepted, read or modified. Users who are concerned about the security of any email can instead post the correspondence and/or documents to the relevant registry or office of the FCFCOA, which can be found on the Court's website, or by calling the telephone numbers listed on the website.

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 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 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 FCFCOA does not access or store users' credit card details.

General Federal Law matters – Privacy in eLodgment and eCourtroom

eLodgment is the electronic filing facility for the Federal Court of Australia and for general federal law matters in the FCFCOA.

In order to lodge case-related documents online or to participate in eCourtroom, users must supply some personal information, such as their name, mailing address, phone numbers and email address. This information is used to enable the user to eLodge documents and/or contribute to an eCourtroom discussion through the

eLodgment application. The personal information collected 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 Lodgement, contribute to an eCourtroom discussion, Log out etc.
- uploaded documents as part of the lodgement 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, and
- email address information, which is only used for the purpose for which users provide it.

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 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

The eServices (online) pages of the Federal 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 the Privacy Officer, the Data Breach Response Team and the CEO/Principal Registrar to notify 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.

Additionally, 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@fcfcoa.au or by letter directed to the Privacy Officer, Federal Circuit and Family Court of Australia, GPO Box 9991, Brisbane Qld 4001.

We will handle your complaint in accordance with the Privacy Act. We will acknowledge your complaint within 10 days, and within 30 days tell you what we are going to do about it. You will be told about any investigation being undertaken regarding the matter, 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@fcfcoa.gov.au or by letter directed to the Privacy Officer, Federal Circuit and Family 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@fcfcoa.gov.au or by letter directed to the Privacy Officer, Federal Circuit and Family Court of Australia, GPO Box 9991, Brisbane Qld 4001. The FCFCOA 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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