



ACT
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Chief Minister, Treasury and
Economic Development

INFORMATION PRIVACY COMPLAINT HANDLING POLICY AND PROCEDURES

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Information Privacy Complaint Handling Policy and Procedures

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This Information Privacy Complaint Handling Policy and Procedures must be reviewed and updated every two years in conjunction with the review of the Information Privacy Policy.

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1. Purpose and application

The Chief Minister, Treasury and Economic Development Directorate (the Directorate) is committed to maintaining the privacy of individuals' personal information and endeavours at all times to ensure it fully complies with its obligations under the Territory Privacy Principles (TPPs) set out in the *Information Privacy Act 2014*. The TPPs contain standards, rights and obligations in relation to our collection and handling of personal information.

The Directorate's *Information Privacy Policy*, available on our website, sets out how we manage personal information when performing our many functions. Performance of those functions includes transactions conducted via the telephone, letters, emails, online and face to face contact. The Directorate recognises that in this environment, errors and unexpected problems can occur.

Consequently, the Directorate is committed to providing an effective and responsive Information Privacy Complaint (privacy complaint) handling regime that promotes openness. Territory Privacy Principle 1 requires that our privacy policy documentation contains information about how an individual may complain about a breach of the TPPs, or any TPP code that binds it, and how we will deal with the privacy complaint.

These policy and procedures outline the process we will follow in the event a privacy complaint is received by the Directorate. It is not intended to apply to requests for access to, or correction of, personal information held by the Directorate.

These policy and procedures apply to the business units and bodies stated in the *Chief Minister, Treasury and Economic Development Directorate Information Privacy Policy*. The procedures relate specifically to complaints concerning information privacy. For details relating to the handling of other complaint types refer to the Directorate's general *Complaints Policy*.

2. Policy Statement

The Directorate is committed to effective, customer-focused information privacy complaint management, ensuring that privacy complaints are managed in an accountable, transparent, timely and meaningful way.

We will:

- observe the principles of fairness, accessibility, responsiveness, efficiency, and integration in our privacy complaint management processes;
- provide complainants with reasonable assistance to make their privacy complaint;
- meet timeframes specified in this document wherever possible;
- determine, on a case-by-case basis, the extent to which an anonymous complaint shall be investigated; and
- maintain a register of privacy complaints received by the Directorate. The register of privacy complaints will record details of the complainant, date the complaint was received, matter of the complaint, action taken and the outcome. The register will be

stored securely and managed in accordance with the *Territory Records Act 2002*, the *Information Privacy Act 2014*.

- As part of our general practice, personal information is only made available to staff who have a need to access it in order to perform their role. Additionally, further legislative compliance is necessary when dealing with specific information such as Tax File Numbers.

3. Making a privacy complaint

If an individual believes that the Directorate or one of its contracted service providers has not dealt with their personal information in accordance with a TPP, they can make a privacy complaint to the Directorate. Assistance in making a privacy complaint can be provided by the Directorate if needed.

3.1. What complainants should check prior to making a privacy complaint

The Directorate can only investigate privacy complaints in relation to its acts or practices or the acts or practices of its contracted service providers. As such, complainants should ensure their privacy complaint falls within the scope of this Directorate's activities, responsibilities and obligations as outlined in *Chief Minister, Treasury and Economic Development Directorate Information Privacy Policy*.

We may not be able to investigate a privacy complaint if the matter complained about occurred more than 12 months ago. If the incident occurred a significant time ago it may be hard for the Directorate to investigate effectively and provide an outcome. In determining if such a privacy complaint may be investigated the Directorate will consider whether:

- it is in writing;
- it is anonymous and/or insufficient details have been provided;
- investigating it would consume an unjustifiable level of resources, given the nature of the issue/s raised;
- there is evidence to support it;
- the complainant has been trying to reach resolution directly with the business unit during that time; and/or
- the matter involves a reasonable suspicion of misconduct.

If a decision is made not to investigate the privacy complaint, the complainant will be advised in writing of this decision, including the reasons for the decision.

If a complaint relates to the information privacy of two or more individuals any one of those individuals may make a privacy complaint on behalf of all of the individuals. In this circumstance, for the protection of each individual's privacy, the Directorate requires the complainant to provide written proof of authority to act on any other's behalf.

3.2. What information should be included in a privacy complaint

In order to properly and efficiently respond to a privacy complaint, complainants should ensure that the complaint contains sufficient information to enable the Directorate to understand its nature and the outcome sought. Information a complainant should consider providing includes:

- what has happened;
- who was involved;
- where did the event/s occur and/or come to their attention;
- how do they believe their personal information has been mishandled;
- what TPPs do they believe have been breached; and
- what outcome are they seeking.

If the complainant holds evidence which may support the privacy complaint this should be included in the information provided. A complainant is not obliged to substantiate each fact or element in a complaint; however providing documents or explaining what they know will assist an investigation.

Additionally, information should be provided about any action they may have already taken, and what action they would like to see as a result of a privacy complaint.

3.3. Anonymous privacy complaints

A privacy complaint can be made anonymously, however the Directorate may not be able to fully investigate the complaint and will not be able to provide the complainant with an outcome. An example of an instance where an anonymous privacy complaint would be investigated is where an alleged breach involved the privacy of multiple individuals, such as a data breach.

3.4. How to make a privacy complaint

A privacy complaint can be made to the Directorate in the following ways:

Email: CMTEDDCorporate@act.gov.au

Web: [Canberra Connect Feedback and Complaints](#)

Mail: CMTEDD Privacy Contact Officer
Chief Minister, Treasury and Economic Development Directorate
GPO Box 158
CANBERRA ACT 2601

Telephone: Manager, Governance and Performance
+61 2 6207 5883; or

CMTEDD Privacy Contact Officer
+61 2 6207 8175

Assisted Contact:

National Relay Service

National Relay Service users: access the National Relay Service website by clicking [here](#). Choose the suitable 'Making a call' option to contact one of the **Telephone** numbers listed above.

Translating and Interpreting Service

Call the Telephone Interpreter Service on:

13 14 50 (within Australia) or +613 9203 4027 (outside Australia).

In order to ensure the Directorate fully understands the nature of a privacy complaint and the outcome being sought, it is preferable that it is made in writing if possible.

4. Privacy complaint handling procedures

4.1 Receipt and acknowledgement of a privacy complaint

The procedures that will be followed to record and acknowledge a privacy complaint include:

- If a verbal privacy complaint is received via telephone, the receiving officer will encourage the complainant to submit their complaint in writing to the Directorate;
- If the complainant is unwilling to submit a written privacy complaint, then the receiving officer will:
 - document the verbal complaint in writing;
 - record the complainant's contact details for the purposes of contacting them in relation to their privacy complaint. At a minimum this should include a telephone number, but ideally would also include an email or postal address;
 - confirm the correct documenting of the complaint by reading it to the complainant by phone or providing it by email;
 - advise the complainant that details of the privacy complaint and their contact details will be provided to the Directorate's Privacy Contact Officer for the purposes of assessing, investigating, and reporting the complaint. If the complainant chooses not to provide their contact details they will be advised that it may be difficult for the Directorate to properly investigate their privacy complaint, and it will not be possible to provide a response; and
 - forward the privacy complaint promptly to the CMTEDD Privacy Contact Officer.
- If a written privacy complaint is received, the receiving officer should forward the complaint promptly to the CMTEDD Privacy Contact Officer.

The CMTEDD Privacy Contact Officer will:

- acknowledge receipt of the privacy complaint in writing¹ within 5 business days of the complaint having been received by them, providing detail of the complaint process, contact officer and relevant timeframes; and
- record the privacy complaint on the CMTEDD Information Privacy Complaint Register.

A complaint against the Directorate may be received via the Office of the Information Commissioner (OAIC). The OAIC is an independent body that will assess a privacy complaint and can make a determination that our actions are an interference with an individual's privacy. The Commissioner can assist a complainant to make a privacy complaint.

If a complaint is submitted directly to the OAIC, and that Office determines that an investigation is required, it will write to the Directorate to advise of the complaint and request 'our side of the story'. The OAIC acts as an impartial third party, and aims to resolve a complaint through facilitating conciliation, allowing the complainant and the Directorate to reach an agreement on the outcome. The process to be followed regarding correspondence and timeframes will differ from that stated above, and will be as required to provide the response requested by the OAIC. The internal investigation process is as reflected in points 3 to 7 below. Further action is then determined in consultation with the OAIC.

More information about the OAIC and how to make a privacy complaint is available by telephoning 1300 363 992 or can be found on the OAIC website at <http://www.oaic.gov.au/privacy/privacy-complaints>.

4.2 Assessment and investigation of a privacy complaint

The nature and complexity of the issues involved in a privacy complaint will determine how long it takes to investigate and respond to the complainant. However, generally, we will provide a written notification of the outcome within 21 working days. Should a privacy complaint involve complex matters or require extensive investigation and consultation it may not be possible to respond within these timeframes. The complainant will be notified in writing if the timeframe cannot be met.

The procedures that will be followed by the CMTEDD Privacy Contact Officer to assess and investigate a privacy complaint include:

1. liaising with the complainant as appropriate to assess the privacy complaint and seek any information necessary to investigate the complaint, and to identify the outcome the complainant is seeking;
2. if necessary, making a transfer of the privacy complaint to another agency as seamlessly as possible, fully explaining and providing details to the complainant;
3. briefing the Manager, Governance and Performance and the relevant business area of the Directorate as appropriate regarding the privacy complaint;

¹ Written acknowledgement/response can be beneficial but is not always necessary. The complaint may be quickly resolved and communication by phone if appropriate.

4. highlighting any special considerations that apply to the privacy complaint (e.g. sensitive information);
5. impartially and confidentially (to the extent possible) assessing and investigating the privacy complaint in consultation with the relevant business unit(s). The key business unit is responsible for compiling, and providing to the Privacy Contact Officer, relevant records relating to the matter, for example emails, records of conversation, system reports, a chronology of activity and events, and any other details of what occurred;
6. seeking technical and/or legal advice;
7. documenting the investigation process; and
8. to accord procedural fairness, providing the complainant with an opportunity to comment on contrary information or claims from another source before a decision is made to dismiss the privacy complaint.

It may be necessary to contact third parties named in a privacy complaint in the course of conducting the investigation. This may necessitate disclosing the nature of a privacy complaint and the complainant's identity. A complainant must advise the Directorate if they do not wish this to occur, however this may mean we cannot properly investigate and resolve the privacy complaint.

4.3 Resolution and outcome of a privacy complaint

The procedures that will be followed by the CMTEDD Privacy Contact Officer to finalise the privacy complaint handling process include:

- advising the complainant in writing (see previous page footnote) of the outcome of the investigation, the proposed action, if any, the Directorate intends to take, and advising of the right to a review if dissatisfied with the outcome;
- advising of the right to submit a formal privacy complaint to the Information Privacy Commissioner;
- ensuring all action taken relating to the privacy complaint is documented and relevant records are appropriately stored;
- recording the outcome of the investigation in the CMTEDD Information Privacy Complaint Register; and
- liaising with business areas and executives as appropriate to ensure identified systemic administrative weaknesses, inadequate record keeping practices, or training deficits are addressed to ensure further information privacy breaches do not occur.

4.4 Notification of personal information security breaches

If the Directorate becomes aware that an individual's personal information has been compromised the relevant business unit will liaise with the Privacy Contact Officer to determine whether, when and how notification to that individual and to the OAIC is appropriate. This is determined on a case-by-case basis using a risk-analysis approach.

Further information about notification is available in the OAIC's guide available at <http://www.oaic.gov.au/privacy/privacy-resources/privacy-guides/data-breach-notification-a-guide-to-handling-personal-information-security-breaches>.

4.5 Withdrawal of a privacy complaint

A privacy complaint may be withdrawn at anytime. The CMTEDD Information Privacy Complaint Register is updated accordingly. Investigation may still proceed if a determination is made that the privacy complaint involves a serious or significant issue.

5. Right to review

If a complainant is not satisfied with our response, they may ask for a review of the decision relating to a privacy complaint by a more senior officer. Requests may be sent to the address provided above in section 3.4.

Alternatively, complainants can make a formal privacy complaint to the Information Privacy Commissioner under section 34 of the *Information Privacy Act 2014*, as outlined above in section 4.1.

6. Review of these policy and procedures

These policy and procedures will be reviewed every two years, or as required.