



Privacy Policy

Policy

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1. Purpose

The purpose of this privacy policy is to:

- clearly communicate the personal information handling practices of the National Vocational Education and Training (VET) Regulator¹
- provide individuals with a better understanding of the types of personal information that ASQA holds and how to access or correct ASQA's personal information holdings
- enhance the transparency of ASQA's operations.

2. Authorisation

The *Privacy Act 1988* (Privacy Act) is an Australian law that regulates the handling of personal information about individuals. This includes the collection, use, storage and disclosure of personal information. The *Privacy Amendment (Enhancing Privacy Protection) Act 2012* introduced many significant changes to the Privacy Act, including 13 Australian Privacy Principles (APPs) that apply to the handling of personal information. As an Australian Government agency, ASQA is obliged to comply with relevant APPs.

In addition, the *Privacy (Australian Government Agencies – Governance) APP Code 2017* (Privacy Code) commenced on 1 July 2018. The Privacy Code sets out specific requirements with respect to privacy management and governance that government agencies must comply with as part of their compliance with APP 1.2.

For a full listing of registered APP Codes, please see the Codes Register available on the Office of the Australian Information Commissioner (OAIC) website (www.oaic.gov.au).

3. Definitions

3.1 Personal information—definition

Personal information is defined under 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.

Some examples of personal information include names, addresses, phone numbers and email addresses.

The definition of personal information only relates to 'natural' persons. It does not extend to other 'legal' persons, such as companies.

¹ The National VET Regulator is the person appointed to make decisions under the *National Vocational Education and Training Regulator Act 2011* (NVR Act), and works as a part of the Australian Skills Quality Authority (ASQA). ASQA's work supports the National VET Regulator in their decision-making.

3.2 Sensitive information— definition

Under the Privacy Act, sensitive information is defined as:

- (a) information or an opinion about an individual's:
 - i. racial or ethnic origin
 - ii. political opinions
 - iii. membership of a political association
 - iv. religious beliefs or affiliations
 - v. philosophical beliefs
 - vi. membership of a professional or trade association
 - vii. membership of a trade union
 - viii. sexual orientation or practices, or
 - ix. criminal record

that is also personal information; or

- (b) health information about an individual
- (c) genetic information about an individual that is not otherwise health information
- (d) biometric information that is to be used for the purpose of automated biometric verification or biometric identification, or
- (e) biometric templates.

4. Collection

4.1 Solicited information

Personal information (and sometimes sensitive information) is collected in order for the National VET Regulator and ASQA to properly and efficiently carry out their functions. The National VET Regulator only collects such information for purposes that are reasonably necessary for, or directly related to, its functions or activities under the *National Vocational Education and Training Regulator Act 2011* (NVR Act), the *Education Services for Overseas Students Act 2000* (ESOS Act), or the *Freedom of Information Act 1982* (FOI Act).

ASQA may also collect information in relation to recruitment, human resource management, and other corporate service functions.

Note that ASQA will only collect sensitive information from individuals if the individual consents to the collection, unless:

- the collection of the information is required or authorised by or under an Australian law or a court/tribunal order
- a permitted general situation exists²
- a permitted health situation exists³ or
- the sensitive information is required for an enforcement related activity.

² A list of permitted general situations can be found in section 16A of the Privacy Act, available at <http://www.comlaw.gov.au>.

³ A list of permitted health situations can be found in section 16B of the Privacy Act, available at <http://www.comlaw.gov.au>.

4.1.1 Information collected from an individual

ASQA generally collects personal information about an individual directly from the individual or their authorised representative.

ASQA will, for example collect personal information if an individual:

- submits an application relating to registration, including reconsideration of decisions relating to registration
- submits an online complaint form about a training provider
- submits a Complaint about ASQA
- makes payment for an ASQA fee or charge, either via application or over the telephone, or when the National VET Regulator refunds an amount to an individual
- submits a Freedom of Information (FOI) request via email
- contacts ASQA seeking information or advice about ASQA's functions, application queries or to lodge a complaint
- is interviewed as part of an audit of a training provider
- provides intelligence information to ASQA for audit or investigation
- submits an application for, or commences employment with ASQA or
- as an employee of ASQA, submits information to human resources for health records, or for a claim for compensation.

An individual may, in some circumstances, such as lodging a complaint, prefer to remain anonymous, or to use a pseudonym, when interacting with ASQA. Individuals should be aware that doing so however may make investigating complaints or providing specific information impracticable.

4.1.2 Information collected from a third party

Sometimes personal information is collected from a third party, or a publicly available source, but only if the individual consents to such collection or collection is required or authorised by or under an Australian law or court/tribunal order or it is unreasonable or impracticable to collect the information directly from the individual.

For example, Registered Training Organisations (RTOs) must provide student information to the National VET Regulator when they have closed down. This enables ASQA to distribute student records to affected students or assist them to transfer to another training provider. ASQA may also collect personal information from a third party for the purposes of carrying out an investigation.

If ASQA collects personal information from a third party, ASQA will take reasonable steps to inform affected individuals that their personal information has been collected from a third party as soon as practicable after the collection has taken place.

4.2 Unsolicited Information

Sometimes ASQA receives personal information without prior request. In such cases, ASQA will determine if the information is required to carry out its functions.

If ASQA determines that the information is not required, and does not form part of a Commonwealth record, then it will destroy or de-identify the information as soon as practicable.

If ASQA determines that the information is required, then the information will be treated as solicited information as per **4.1 - Solicited information**.

5. Notification

5.1 Notifying the individual at collection

When collecting personal information directly from an individual, the National VET Regulator and ASQA will take reasonable steps to notify, or otherwise ensure the individual is aware of:

- ASQA's contact details
- the fact and circumstances of collection
- whether the collection is required or authorised by law
- the purposes of collection
- the consequences if personal information is not collected
- ASQA's usual disclosures of personal information of the kind collected
- information about ASQA's Privacy Policy and how to make privacy complaints and requests for access to, and correction of, personal information
- whether ASQA is likely to disclose personal information to overseas recipients, and if practicable, the countries where they are located.

5.2 Notifying the individual if information is collected from a third party

In addition to the matters above, if ASQA collects personal information from someone other than the individual or the individual may not be aware that the organisation has collected the personal information, reasonable steps will be taken to notify the individual, or otherwise ensure that the individual is also aware of the following matters:

- that ASQA collects or has collected the information
- the circumstances of the collection, including from whom the information was collected.

6. Use and disclosure of personal information

The National VET Regulator and ASQA will only use and disclose personal information for the primary purposes for which it was collected unless:

- the individual has consented to the information being used for a secondary use or disclosure
- the individual would reasonably expect ASQA to use or disclose the information for the secondary purpose and that purpose is related to the primary purpose
- the use or disclosure of the information is required or authorised by or under an Australian law or a court/tribunal order
- a permitted general situation⁴ exists in relation to the use or disclosure of the information, for example, if ASQA believes that the use or disclosure is necessary to lessen or prevent a serious threat to the life, health or safety of any individual
- a permitted health situation⁵ exists in relation to the use or disclosure of the information or

⁴ A list of permitted general situations can be found in section 16A of the Privacy Act, available at <http://www.comlaw.gov.au>.

⁵ A list of permitted health situations can be found in section 16B of the Privacy Act, available at <http://www.comlaw.gov.au>.

- ASQA reasonably believes that the use or disclosure of the information is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body.

ASQA will only use sensitive information for a secondary purpose if it is directly related to the primary purpose.

Some personal information provided to the National VET Regulator through registration application forms will be disclosed to the Department of Education, Skills and Employment (DESE) and published, in accordance with section 216 of the NVR Act and section 14A of the ESOS Act, on one or more National Registers (www.training.gov.au, or cricos.education.gov.au), which are maintained by DESE. The information may also be shared with state and territory government and other Australian Government authorities and ministers, occupational licensing bodies, overseas authorities, and others in accordance with the information sharing provisions contained in the NVR Act and ESOS Act.

6.1 Disclosing personal information to other countries

ASQA will not disclose personal information or sensitive information to other countries. Under section 208 of the NVR Act, *Disclosure of information in accordance with international cooperative arrangements*, the National VET Regulator may disclose information relating to the assessment or regulation of RTOs to a regulatory authority of another country where Australia has cooperative arrangements in place.

6.2 Use of personal information for direct marketing purposes

ASQA may only use or disclose personal information for direct marketing purposes in limited circumstances, for example where the individual would reasonably expect ASQA to use their information in that way or the individual consents to such use or disclosure.

For example, ASQA's newsletter, *ASQA Update*, is sent to the Chief Executive Officer of an RTO, as published on the national register (training.gov.au), which is maintained by DESE, and to individuals who have subscribed to the email service. ASQA's newsletter has an 'unsubscribe' option located at the bottom of every edition.

7. Data quality

The National VET Regulator and ASQA will take reasonable steps to ensure that the personal information they collect is accurate, up-to-date and complete. These steps include maintaining and updating personal information when advised by individuals that their personal information has changed, and at other times as necessary. ASQA will also take reasonable steps to ensure the accuracy and completeness of the information prior to any use or disclosure of the information.

ASQA provides a secure online application system called asqanet, which allows training providers access to update their business and personal information at any time.

8. Data security

The National VET Regulator and ASQA takes all reasonable steps to protect the personal information they hold against misuse, interference, loss and unauthorised access, modification or disclosure.

When no longer required, personal information is destroyed in a secure manner, or deleted in accordance with ASQA's Records Management Policy, in compliance with the General Disposal Authority issued by the National Archives of Australia.

9. Privacy Impact Assessments

ASQA will conduct a Privacy Impact Assessment (PIA) for all high privacy risk projects. A high privacy risk project is a project that involves or proposes new or changed ways of handling personal information that are likely to have a significant impact on the privacy of individuals.

A PIA identifies the potential impact that project might have on privacy and sets out recommendations for managing, minimising or eliminating that impact.

For a full listing of PIAs conducted by ASQA, please see ASQA's PIA Register available on the ASQA website, at: <https://www.asqa.gov.au/about/accountability-and-reporting/privacy>.

10. Access and correction

10.1 Access and correction under the Privacy Act

Under the Privacy Act, individuals may request access to personal information that ASQA holds about them. Unless ASQA is authorised to refuse access to the information under the FOI Act or any applicable provisions of any law of the Commonwealth, ASQA will grant such a request.

Individuals may also request that ASQA correct any personal information about the individual that ASQA holds. ASQA will only update the information if it is satisfied the information it holds is inaccurate, out-of-date, incomplete, irrelevant or misleading. If so satisfied, ASQA will take reasonable steps to correct that information.

ASQA will provide a response to any request for access to or correction of personal information within 30 days. If refusing the request, ASQA will provide a written statement of the reasons for the refusal and remind the individual of the available complaint mechanisms, which are outlined below in **11 - Complaints**.

ASQA will not charge individuals for requests for access to or correction of their personal information held by ASQA.

Members of the public should direct their requests to ASQA's Privacy Contact Officer using the contact details set out below in **12 - Privacy Contact Officer**.

10.2 Access, amendment or annotation under the FOI Act

Individuals may also make a request to ASQA for access, amendment or annotation to their personal information under the FOI Act. ASQA will respond to these requests in accordance with the

FOI Act. If dissatisfied with the response received from ASQA, an individual may seek an internal review of the FOI decision. An individual may also request that the Australian Information Commissioner review ASQA's decision.

In accordance with the *Freedom of Information (Charges) Regulations 1982*, ASQA does not charge for requests for, or access to personal information.

ASQA's FOI Officer can be contacted at foi@asqa.gov.au.

11. Complaints

If an individual wishes lodge a complaint about how ASQA handles personal information, or if they feel ASQA has breached the APPs and/or an APP code, they can do so by completing a Complaint about ASQA form available on the ASQA website at <https://www.asqa.gov.au/complaints/complaints-about-asqa>.

Completed forms should be emailed to: privacy@asqa.gov.au

ASQA will provide a response to privacy complaints within 30 days of receipt.

If an individual is dissatisfied with ASQA's response, they may submit their complaint to the OAIC for further investigation. Please note however that the OAIC may not investigate a complaint if the complainant has not firstly lodged their complaint with ASQA. The OAIC's contact details are as follows:

Telephone: 1300 363 992

Email: enquiries@oaic.gov.au

Post: Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

12. Privacy Contact Officer

If you have any questions about how ASQA collects, holds, uses or discloses your personal information or about requests for access to or correction of your personal information or lodging a privacy complaint, please contact ASQA's Privacy Contact Officer via:

Telephone: 1300 701 801

Email: privacy@asqa.gov.au

Post: Privacy Contact Officer
Australian Skills Quality Authority
GPO Box 9928
MELBOURNE VIC 3001

13. Review

ASQA's privacy policy will be reviewed every two years unless otherwise required or desired, by ASQA's Privacy Officers.

Schedule 1 ASQA's collection of personal information

Registration and compliance

Applications for provider registration

The National VET Regulator and ASQA collect information about organisations and individuals applying for registration as an RTO and/or as a CRICOS-registered provider. The information collected includes names; contact details; and banking or credit card details for processing application fees. The information is collected from the individual directly, via paper forms or online systems that are accessible by the applicant.

Individuals that are owners, directors or high managerial agents of organisations that hold or seek registration are required to provide a declaration to demonstrate that they satisfy fit and proper person requirements. Personal information collected in this declaration includes criminal offence convictions, Corporations Act disqualifications, or bankruptcy or insolvency determinations.

If an organisation is granted RTO registration, ASQA will disclose the names of the RTO's executive officers and high managerial agents and the contact details of the Chief Executive Officer, registration enquiries contact and general enquiries contact to DESE for the purposes of publishing this information on the national register (training.gov.au) and contacting the RTO.

If an organisation is granted CRICOS registration, ASQA will disclose the contact details of the provider's Principal Executive Officer to DESE for the purposes of publishing this information on the national register (cricos.education.gov.au) and contacting the provider.

Certain decisions about organisations are also published on the ASQA website and in these cases the name of the high managerial agent of the affected RTO will also be published. (Information about credit cards can be found below under Finance).

Audits

ASQA records details of the audits of organisations that ASQA has conducted. The personal information collected during an audit may include contact information and opinions of employees, students and contractors of the organisation or of representatives of partner organisations to the organisation being audited. The information is collected to inform the audit, directly from the organisation. ASQA also collects information relating to training and assessment of the organisation's students, also for the purpose of informing the audit. This information is usually collected from the organisation. The information is stored securely in the organisation's file, and the specific audit activity.

ASQA collects personal information about students when issuing student surveys, and when engaging third party consultants. The information collected includes names and contact details. This information is stored in a secure location in ASQA's electronic records management database.

ASQA collects personal information from individuals providing technical advice to ASQA for audit purposes. The information collected includes name, contact details, position and banking details. This information is collected directly from the individual.

Training provider closures

Personal information relating to current and completed students is collected by ASQA when an RTO closes. The information is collected in accordance with sections 211 and 212 of the NVR Act. The collected information is disclosed in accordance with sections 205 and 205A, when the information is formally requested. The collected information relevant to a specific individual is disclosed to that individual student, when requested, in order to assist the student if they have lost their testamur. Information relevant to an individual student is only disclosed to third parties with the express permission of the individual student.

Course Accreditation

ASQA's collects personal information from organisations and individuals applying for accreditation of a course. The personal information collected includes, names, contact details and banking details for processing application fees. This collection activity informs ASQA's decisions relating to accrediting the course. This personal information is collected directly from the applicant. If the course is granted accreditation, then the names and contact details of the copyright holder will be published on the national register (training.gov.au), maintained by DESE.

Strategic reviews

From time to time, as part of undertaking a Strategic Review on a specified industry area or area of risk, ASQA may collect personal information about individuals. The information collected may include name, contact details and opinions that may identify an individual. This information is collected in accordance with the legislative instrument *Standards for VET Regulators 2015, Standard 3*. The information is collected directly from the individual. ASQA may disclose the information to another agency or organisation if the individual has consented to such disclosure.

The Strategic Reviews team in its previous reviews has conducted surveys of stakeholders to extract data and seek the opinions of these stakeholders about training package design (and re-design), training delivery and RTO practices. The information from these surveys contains personal information and it has been de-identified when referred to in public documents and the Strategic Review reports.

Legal and enforcement matters

ASQA collects personal information from individuals when information requests are made regarding a training provider or a matter before the Administrative Appeals Tribunal (AAT). The information collected may include a wide range of personal information, depending on the nature of the request, including name, signature, home address, email address, telephone number, date of birth, employment details, work address and contact details, salary, job title and work practices, credit information, tax file number information, bank account details, information about an individual's business.

Requests for information made for enforcement purposes may include sensitive information such as health information e.g. medical certificates, information or opinion about an individual's racial or ethnic origin, or criminal records. This information is collected in accordance with various provisions in the NVR Act, ESOS Act, *Administrative Appeals Tribunal Act 1975*, *Crimes Act 1915* and *Evidence Act 1995*. The information collected may not be directly about the provider or its managerial agents as, for example, it may include information about students, executive officers or trainers and assessors. ASQA may disclose this information to AAT case officers and members.

ASQA also collects personal and sensitive information from witnesses and individuals external to a training provider in relation to matters before the AAT. The information collected may include sensitive information regarding an individual's racial or ethnic origin, through passports. This

information is collected to assist ASQA in investigations or AAT matters. The information collected from the witnesses and individuals can be in regards to the individuals themselves as well as other individuals. ASQA may disclose this information to AAT case officers and members. This information is stored securely in legal and enforcement case files.

Complaints

ASQA collects personal information about individuals when they make a complaint to ASQA about an organisation that ASQA regulates. The information collected may include the complainant's name, contact details, and/or their opinions and unique writing styles that may be used to identify them. This information is collected in accordance with the legislative instrument *Standards for VET Regulators 2015, Standard 3*. The information is collected directly from the individual. ASQA may disclose a complainant's identity to the organisation to which the complaint relates or to another relevant agency or organisation unless the individual has informed ASQA that they do not consent to such disclosure.

ASQA also collects personal information about complainants when they make a complaint to ASQA about ASQA. The information collected may include name, contact details, organisation and title, and opinions. This information is collected to allow ASQA to handle, manage and investigate complaints. The information is collected directly from the individual. The information is stored in a secure location within ASQA's electronic records management database (only accessible by approved persons). ASQA may disclose the information to the Minister in the course of undertaking our functions and activities.

Enquiries and stakeholder engagement

Info Line

ASQA collects personal information about individuals when they contact ASQA to make an enquiry, or when ASQA contacts an individual. The information collected may include name, contact details and opinions about a particular matter. This information is collected from the individual at the time of the contact. ASQA uses the information for the purposes of engaging with industry stakeholders, and as intelligence to inform risk management processes. ASQA publishes some contact details for state licensing requirements on its website (www.asqa.gov.au).

When individuals contact ASQA's Info line via email to enquire about their provider's registration, the Info line operators collect personal information to conduct proof of identity checks, so that particular information about a provider is only disclosed to the contact listed on the national register. When individuals contact ASQA to obtain student information, the Info line operators collect personal information to conduct proof of identity checks, so that the information is only disclosed to that student.

Student record applications

ASQA collects personal information from individuals applying to ASQA for a copy of their student qualifications or statements of attainment. The information is collected for identity verification

purposes and includes USI, name, address, date of birth, email and mobile phone number. ASQA does not disclose this information to any other parties.

Industry engagement

When industry stakeholders are engaged, business contact information is collected from the individuals ASQA engages with and is stored in the Stakeholder Contact Register. The opinions offered (and captured by contact log entries) are work specific. Where personal information about a person is collected, it is entered into the relevant system or register as a complaint or intelligence entry or very rarely the Persons of Interest and Associations Database.

ASQA also has access to information relating to the selection/application process that determines the members of the Stakeholder Liaison Group.

Freedom of information

ASQA collects personal information when processing freedom of information requests, including name and contact details. This information is collected directly from the individual to enable ASQA to fulfil its obligations under the FOI Act. The information is not disclosed to external parties unless the individual consents to the disclosure.

Privacy

ASQA collects personal information when processing privacy requests, including name and contact details. This information is collected directly from the individual to enable ASQA to fulfil its obligations under the Privacy Act. The information is not disclosed to external parties unless the individual consents to the disclosure.

Information collected online by ASQA

Information is collected about all visitors to ASQA's online resources. That information is very limited and only used to identify generic behavioural patterns. No personal information is collected.

ASQA uses Google Analytics on its websites. Information and data collected through Google Analytics is stored by Google on servers in the United States of America, Belgium and Finland. An individual can opt out of the collection of information via Google Analytics by downloading the [Google Analytics Opt-out browser add on](#).

When an individual visits any of ASQA's online resources, ASQA's metric tools may collect the following information about the visit for statistical purposes:

- server address
- top level domain name
- date and time of each visit to the site
- pages accessed and documents viewed
- previous site visited
- browser type
- browser language
- cookies that may uniquely identify a browser.

ASQA records this data to maintain its server and improve services. ASQA does not use this information to personally identify anyone.

ASQA uses cookies to 'remember' browsers between page visits. In this situation, the cookie identifies the browser, not the individual. An individual may refuse the use of cookies by selecting the appropriate setting on their browser.

Finance

ASQA collects personal information relating to financial matters in many situations, including:

- **Setting up a vendor account:** The personal information collected includes name, contact details, ABN and bank details. These are collected directly from the individual. ABN numbers are cross-referenced on the Australian Business Register. This information is collected to ensure ASQA makes correct payments for goods and services and complies with relevant government payment and reporting requirements. This can include employees to whom ASQA reimburses monies. In some instances, ASQA collects an individual's Tax File Number to ensure compliance with taxation legislation, specifically when a person is carrying on a business and does not have an ABN.
- **Processing cheques and refunds:** The personal information collected includes bank account details. This information is collected directly from the individual to enable transaction.
- **Processing credit card payments:** Credit card details are supplied by the individual on the appropriate form, via email, over the phone or via ASQA's payment gateway. Electronic records of credit card details are deleted after use. ASQA conforms to Payment Card Industry Data Security Standard requirements that apply to electronic data transfer and storage.
- **Completion of FBT declarations:** The information collected includes name and address, and is supplied by the individual who completes the form. This information is to ensure ASQA complies with the *Fringe Benefits Tax Act 1986* (FBT Act), the *Income Tax Assessment Act 1997* (ITAA) and may be disclosed to a third party, such as internal auditors (for processing or assessing FBT returns) or to the Australian Tax Office (if required).
- **Processing salary sacrifice arrangements:** The information collected includes name, contact details, tax file number, Australian government service number, bank details. This information is collected from the individual by ASQA to comply with FBT Act, *A New Tax System (Goods and Services Tax) Act 1999*, and the *Income Tax Assessment Act 1936*.
- **Completion of Reserve Bank of Australia Verifying Officer nomination:** The information collected includes name, contact details, Australian government service number, security clearance status and is provided by the individual when completing the form. The form is sent to the Reserve Bank of Australia. ASQA does not keep any copies.
- **Completion of Central Budgetary Management System forms:** The information collected includes name, Australian government service number and security clearance status and is provided by the individual when completing the form. The form is sent to the Department of Finance. ASQA does not keep any copies.

Human resource management

ASQA collects personal and sensitive information relating to its employees, or potential employees including:

- **Upon an employee's commencement, or on an individual's application to ASQA for employment:** The information collected includes address and personal contact details, bank account details, tax file number, salary information, diversity information, medical information, emergency contact information and identification information (such as passport or drivers licence and superannuation details). This information is collected upon commencement, and if the details change throughout the individual's employment with ASQA. This information allows ASQA to effectively manage human resource matters, such as payment of salary and appropriate tax.
- **Upon an individual's application to ASQA for employment:** The information collected includes education qualifications, previous employment history, criminal records check and referee comments. This information is collected directly from the applicant and supports ASQA's merit-based recruitment processes.
- **From time to time, medical information is collected when necessary:** This information is collected from the individual or a medical practitioner with the employee's consent and helps ASQA determine rehabilitation and early intervention services that may be appropriate.
- **From time to time, information in relation to performance assessment, reviews of action (grievances) and misconduct:** This information is collected from the individual, the individual's manager, other witnesses and other relevant people as determined appropriate given the situation. This information is collected to determine compliance with ASQA's performance development framework, and helps ASQA manage complaints or other employment issues.

Information relating to ASQA Human Resources is not disclosed to any other party unless the individual has consented to the disclosure, or would reasonably expect ASQA to disclose the information. Any questions about employees' personal information should be directed to the Manager, People and Capability.