

Privacy Policy



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Introduction



1. The Franciscan Friars of the Holy Spirit Province are committed to protecting the privacy of all personally identifiable information that we collect and hold. This Privacy Policy (this Policy) sets out the ways in which we collect, store, use, disseminate, and dispose of personal information and data.
2. The Holy Spirit Province (the Province) is the Franciscan ecclesiastical and administrative territory comprising Australia and Aotearoa-New Zealand (Region of St Andrew).
3. This Policy has been approved by the Provincial Minister and his Definitory acting also in their capacity as directors of Franciscan Order of Friars Minor. The Provincial administration will review the Policy at least once every three years, or as required by legislative change. When such changes are made, the updated Policy will be published on our website, with the date of the last update noted.

Application of this Policy

4. This Policy applies to all Franciscan communities and ministries throughout the Province, and to the Province's corporate civil entity in Australia, the Franciscan Order of Friars Minor. All friars, and all employees¹, and volunteers² appointed to any position administered by the Holy Spirit Province or (in Australia) the Franciscan Order of Friars Minor, must comply with this Policy.
5. This Policy does not apply to the Friars Minor of New Zealand Trust Board (FMNZTB), or its employees or volunteers. As the separately constituted Franciscan corporate civil entity in Aotearoa-New Zealand, the FMNZTB is responsible for developing its own policies and procedures, specific to its own operation.
6. This Policy also does not apply to the dioceses, parishes, universities, schools, or other external institutions where some Franciscan friars work in ministry. These entities have their own privacy policies. Where friars are engaged or participate in external ministries that do not fall under the governance of the Province, they must adhere to the privacy policies of the entity to which the ministry belongs.
7. This Policy sets out the main privacy obligations and responsibilities which must be met, as a minimum, in order to achieve a basic level of consistency in the protection of personal information (privacy protection) across the Province's operations, in so far as this is practicable.
8. The Province is committed to the protection of privacy, but we recognise that privacy protection can, and sometimes must, be limited in some demonstrably justifiable circumstances – for example, in order to address serious risks to a person's safety.³ While prioritising the safety of all, and the safety of children and vulnerable adults in particular, we will also endeavour to ensure that any limitation of privacy is restricted to that which is reasonable, necessary, and proportionate in the circumstances.

1 That is, anyone appointed to a paid position administered by the Province or by the Province's corporate civil entity in Australia, the Franciscan Order of Friars Minor, on a full-time, part-time, or contract basis.

2 That is, anyone appointed to a position administered by the Province or by the Province's civil corporate entity in Australia, on an unpaid or voluntary basis.

3 See the Province's **Professional Standards Code of Conduct and Safeguarding Policy**.

Relevant Laws



9. This Policy has been developed to operate consistently with the laws of the jurisdictions in which we operate.
10. In Australia, the Province adheres to the *Privacy Act 1988* (Cth) and the Australian Privacy Principles (APPs), which regulate the collection, use, and disclosure of personal information.
11. In Aotearoa-New Zealand, we adhere to the *Privacy Act 2020* (NZ).
12. In some circumstances, privacy laws may have extraterritorial application – that is, a country's privacy law provisions may apply to entities which are registered or located, and/or to conduct which takes place, outside that country. The Province adheres to extraterritorial laws where they apply to our operations.
13. In addition to the privacy laws noted above, a range of other laws may affect how we handle personal information – for example:
 - laws regulating information sharing related to the safety and welfare of children and young people;
 - laws applying to particular types of sensitive records – for example, health records, or protected information under Australia's National Redress Scheme;
 - laws for reporting to law enforcement, children protection, or other statutory authorities;
 - laws regulating employment.
14. This Policy is not intended to direct Franciscan Personnel to act in contravention of any laws that apply to the collection, use and disclosure of personal information in particular cases. In any circumstances where compliance with this Policy would result in a breach of applicable law, Franciscan Personnel are to comply with the applicable law.
15. If any applicable laws confer additional privacy rights or impose greater obligations or higher standards for privacy protection than those set out in this Policy, we will uphold and fulfill these rights, obligations, and standards where and as required under applicable laws.

Collection, Use and Disclosure of Information

16. We will only collect, use or disclose personal information where it is reasonably necessary for us to carry out our ministries, functions or activities and if:
 - we have the consent of the person to whom the information relates (or the consent of a person with lawful authority to represent them); or
 - we are required, or permitted, to do so by law.
17. In circumstances where we are not required by law to seek consent for collection, use, or disclosure, we will endeavour to do so where reasonable, appropriate and practicable.⁴
18. The circumstances in which we collect, use or disclose personal information – including the purposes for which we collect, use, and disclose personal information, and the types of personal information we collect, are set out below.

⁴ Privacy laws and other laws set out a number of circumstances in which personal information may be collected, used or disclosed, without consent. Court or tribunal orders may also require or authorise collection, use or disclosure of personal information, irrespective of consent.

19. The Province conducts a range of ministries, functions, and activities for which it may need to collect personal information in certain circumstances. Generally speaking, we collect personal information when it is reasonably necessary for us to carry out these ministries, functions, or activities, examples of which include, but are not limited to:
- provision of pastoral ministry;
 - charitable and fundraising activities;
 - providing information newsletters to our associates and supporters;
 - employment of staff;
 - engagement of volunteers;
 - administering contracts;
 - professional standards and safeguarding purposes, including satisfying our due diligence, duty of care, legal, and child safeguarding obligations, and responding to professional standards complaints and claims;
 - insurance purposes;
 - providing accommodation, health and other services and support to friars;
 - complying with our with our legal obligations, exercising our legal rights, or establishing, exercising, or defending a legal or equitable claim;
 - organisational management;
 - other incidental and administrative purposes related to, or in connection with, the above.
20. Examples of the types of personal information we collect include, but are not limited to:
- names and contact details, such as home address, email address and telephone number, of people who subscribe to our emails or newsletters;
 - names, contact details, and bank or credit card details of people making donations;
 - personal information kept on the personnel files of Franciscan friars, employees and volunteers;
 - personal information provided by applicants for an employment or volunteer position;
 - personal information including police checks and reference checks relating to visa applications by overseas friars;
 - personal information relating to professional standards and safeguarding matters, including settlement of complaints and claims;
 - information about a person's background or personal circumstances (e.g. ethnicity, marital status, medical history, health and disability information) recorded in the context of providing pastoral ministry;
 - photographs where a person's identity is clear or can reasonably be ascertained from the image.

Collection (Cont'd)

21. In most cases, we will collect personal information directly from the person to whom the information relates. In some cases, we may collect personal information from a third party with the consent of the person to whom the information relates.
22. In limited cases, we may collect personal information from a third party without the consent of the person to whom the information relates. However, we will only do so if it is unreasonable or impracticable to collect the information from the person to whom the information relates, or to obtain their consent for collection from another source,⁵ and we are required or permitted by law to collect the information in these circumstances. We may also collect personal information without consent where it is publicly available.
23. When we collect personal information, we will take reasonable steps to notify the person to whom the information relates of the following:
 - the fact that we are collecting the personal information and the way we are collecting it;
 - the purposes of collecting the personal information;
 - the consequences if the personal information is not collected;
 - whether collecting the personal information is required or authorised by law;
 - if the personal information is likely to be disclosed to overseas recipients;
 - information about our Privacy Policy, including information about how the personal information can be accessed and corrected, and how to make a complaint in the event of a privacy breach;
 - our contact details.
24. In most cases, we will only disclose personal information, or disclose it to a third party, for the purpose for which the information was collected (the primary purpose of collection).

⁵ This may be the case if, for example, collecting that information from the person directly would undermine the lawful purpose of collection, or the person's location is unknown despite numerous attempts to locate them.



Use and Disclosure

25. We will only use or disclose the information for a different purpose (a secondary purpose) if:
 - we have the consent of the person to whom the information relates,
 - we are subject to a legal requirement to use or disclose the information for that secondary purpose,⁶ or
 - if such use or disclosure is permitted by law and reasonable and appropriate in the circumstances.⁷
26. If we do not obtain consent before using or disclosing personal information for a secondary purpose, we will notify the person concerned of the use or disclosure if it is reasonable, practicable, and lawful to do so.⁸ In all cases, we will endeavour to ensure that any personal information we use or disclose is no more than that which is reasonably required for that secondary purpose.
27. The Province does not share databases, and does not sell, distribute, or lease personal information to third parties for their own marketing purposes.
28. In some limited circumstances, contractors engaged by us may be given access to personal information we hold, in order to assist us in exercising and administering our functions and activities. In such cases, we will put confidentiality agreements in place to ensure that contractors are aware that the confidentiality of any personal information they access in the course of their work must be respected and protected.

6 Across the Province, we are subject to a number of laws for reporting to law enforcement authorities and other statutory authorities. Under these laws, we may be required to disclose of personal information (including sensitive information), regardless of the purpose for which that information may originally have been collected and irrespective of consent for disclosure. We may also be subject to requirements for disclosure under a court or tribunal order.

7 For example we may, in so far as applicable law permits, use or disclose personal information for a secondary purpose:

- if the secondary purpose is related to the primary purpose (or, in the case of sensitive information, directly related to the primary purpose), and the person to whom the information relates would reasonably expect use or disclosure for that secondary purpose;
- we reasonably believe that the use or disclosure is necessary in order to:
 - o lessen or prevent a serious threat to life, health or safety;
 - o take appropriate action in relation to suspected unlawful activity or serious misconduct;
 - o locate a person reported as missing;
- if reasonably necessary for establishing, exercising or defending a legal or equitable claim;
- if reasonably necessary for a confidential alternative dispute resolution process; or
- in certain other circumstances relating to health.

8 In some circumstances, we may not be able to notify the person concerned – for example, where we have disclosed the information to criminal justice authorities in the course of an investigation.

Disclosure to Overseas Recipients

29. Because the Province operates transnationally, and because the international headquarters of the Order of Friars Minor is based in Rome, there may be occasions when we need to transfer personal information across national borders for the purposes of undertaking and administering our ministries, functions and activities,⁹ and otherwise when we are legally required to do so.
30. We are committed to maintaining the protection of personal information we transfer to overseas recipients and will comply with our obligations, under applicable law and this Policy, in this respect.
31. Generally speaking, we will seek consent of the individual(s) concerned before disclosing their personal information overseas. In the absence of consent, we will not disclose personal information to an overseas recipient unless we are required or permitted by law to do so.
32. In some cases, we may need to transfer personal information to a country (the receiving country) where laws provide a lower level of privacy protection than that provided under the laws of the country from which we are sending the information (the sending country) and/or under this Policy. In such cases, we will take reasonable steps to ensure that the personal information continues, after it is transferred, to receive a standard of protection that is at least comparable to that provided under the laws of the sending country and this Policy. For example, we may require the recipient to enter into contractual agreement to implement appropriate safeguards.

Sensitive information

33. In some circumstances, we may need to collect, use or disclose sensitive information relating to Franciscan Personnel or individuals who have regular contact with the Province in connection with its ministries, functions and activities. The handling of sensitive information, including health information,¹⁰ requires a higher degree of protection than other forms of personal information. We will only collect, use or disclose sensitive

⁹ Our ministries, functions and activities are described above, at paragraph 21.

¹⁰ Health information is a subset of sensitive information. See Glossary for definition of these terms.



Personal Information Relating to Children or Vulnerable Adults

information with the express consent of the person to whom the sensitive information relates, unless applicable law requires or permits collection, use or disclosure of such information in other circumstances.¹¹

34. We will take particular care when handling personal information relating to children and vulnerable adults. This includes taking additional measures, where practicable, to ensure that the way information is collected from children and vulnerable adults is fair and appropriate, and to verify the accuracy of the information.
35. In any case where we need to handle personal information relating to a child under the age of 15, we will seek consent from the child's parent or guardian. In the case of a child aged 15 or over, we will seek consent from the child directly if it is apparent that the child has sufficient maturity and understanding to make an informed decision about the handling of their personal information. However, if that is not apparent, or if the child's consent is otherwise considered insufficient under an applicable law, we will seek consent from the child's parent/guardian.
36. Generally speaking, where consent is sought from a child's parent or guardian, we will also endeavour to include the child in discussion and decision-making about the handling of their personal information in so far as that is appropriate and reasonable.
37. In the case of a child aged 15 or over, we will seek consent from the child directly if it is apparent that the child has sufficient maturity and understanding to make an informed decision about the handling of their personal information. However, if that is not apparent, or if the child's consent is otherwise considered insufficient under an applicable law, we will seek consent from the child's parent/guardian.
38. Where a vulnerable adult lacks capacity to consent to our collection, use, or disclosure of their personal information – for example, because they have a cognitive impairment/mental disability – we will seek consent from a person who has lawful authority to make decisions on their behalf. We will also endeavour to include the vulnerable person in discussion and decision-making about consent in so far as that is appropriate and practical.

11 As with other types of personal information, privacy and other laws provide exceptions for the collection, use and disclosure of sensitive information without consent in some circumstances. For example, under Australian privacy law, a religious not-for-profit organisation may be entitled to collect information about its members' views on religious or moral issues without consent.

Personal Information Relating to Employees

39. Privacy rights and obligations with respect to the handling of employees' personal information can vary significantly under the different privacy laws in effect throughout the Province.¹²
40. We will comply with requirements for the protection of employees' personal information under applicable privacy laws, and other applicable laws, as well as with our own ethical obligations for the proper handling of such information.

Unsolicited Personal Information

41. We may sometimes receive unsolicited personal information from third parties. We will keep, use or disclose such unsolicited personal information if the information is reasonably necessary for one or more of our functions or activities or for compliance with our legal obligations. In such cases, we will notify the individual concerned where reasonable and appropriate, and we will handle the information in accordance with applicable law – including seeking consent, if required, to keep, use or disclose that information. In any cases where it would be unlawful or inappropriate for us to keep the information, we will delete, destroy or de-identify it as soon as practicable.

12 Employee records related to a current or former employment relationship between an employee and employer are not covered by the Australian Privacy Principles. However, health privacy laws in Victoria and the ACT do apply to employees' personal information. Safeguards for the protection of employees' personal information may also be found under other laws in Australia.

Our Website



42. The Province has a website located at www.franciscans.org.au.
43. There are also other websites associated with some of our ministries (for example, the websites of parishes in which we minister). We may contribute to these websites, but we are not responsible for their operation, and do not have any control over their compliance with the privacy practices we lay out in our policy.
44. Generally speaking, we do not collect or record the personal information of visitors to our website unless that personal information is provided to us via a web contact form. However, server logs for our website may automatically record information such as the IP address of visitors to the website, and use 'cookies' that may uniquely identify their browser. We delete this information through a regular and secure process. Cookies sent by a third party may also be used, for example if we embed a video from a third-party platform on our website. Visitors to our website who do not want cookies loaded onto their computer can adjust the settings in their web browser to block them. They can also clean the cache on their web browser at any time to remove cookies from their computer.
45. Where our website provide links to other websites, we are not responsible for these websites, and do not have any control over their compliance with the privacy practices laid out in this policy.

Storage, Security, and Retention of Personal information

46. We store personal information both in hard copy and digital form, at our premises and with the assistance of our IT service providers, in accordance with applicable legal requirements for record-keeping and our **Record-keeping Policy**.
47. We are committed to ensuring the security, integrity and confidentiality of personal information that we hold. We take all reasonable steps to protect and secure the personal information we hold from unauthorised access, disclosure or modification, or other misuse, interference, or loss. These steps include restricted access to Provincial offices and other areas where personal information is stored, password-protected computer files that can be accessed only by authorised individuals, the use of high-security IT systems, and the provision of regular training to all Franciscan Personnel about the importance of maintaining the confidentiality and security of personal information.
48. We will retain personal information for as long as it is necessary to fulfil the purposes for which that information was collected. We may keep personal information beyond this time if we consider it necessary and reasonable to do so in order to meet our legal obligations or operational requirements. However, we will only do so where and as permitted under applicable laws and in accordance with our **Record-keeping Policy**.
49. When we no longer require personal information for the purpose for which it was collected or for any other purpose for which it may be lawfully used or disclosed, and retention is not required by law, it will be securely destroyed or deleted in accordance with the Province's **Record-keeping Policy**. In some circumstances we may keep the information in de-identified form only.
50. Personal information contained in personnel files of current and former Franciscan friars, employees and volunteers, and in professional standards complaints and claims files, will be retained permanently, in accordance with the Province's **Record-keeping Policy**.

Response to Data Breaches



51. We are committed to ensuring the security, integrity and confidentiality of personal information that we hold. This means taking all reasonable steps to protect and secure the personal information we hold from unauthorised access, loss, misuse, disclosure, or alteration. These steps include restricted access to Provincial offices and other areas where personal information is stored, password-protected computer files that can be accessed only by authorised individuals, the use of high-security IT systems, and the provision of regular training to all Franciscan Personnel about the importance of maintaining the confidentiality and security of personal information.
52. In the event of a data breach which has caused (or is likely to cause) serious harm to any of the persons to whom the information relates, we will comply with all applicable legal requirements for response, including taking prompt action to contain, assess and remedy the breach and notifying the regulatory authority for privacy in that jurisdiction and affected individuals as soon as practicable. We will also notify other parties who may be affected or have relevant responsibilities (such as police) where necessary, reasonable and lawful to do so.
53. Our procedures for responding to actual or suspected data breaches are set out in further detail in our **Data Breach Response Plan**.

Access to Personal Information

54. Individuals are entitled to seek access to the personal information we hold about them.
55. Requests for access to personal information should be made in writing. In most cases individuals will be granted access to their personal information after we have verified their identity, and within the period (if any) set by applicable law. We may also provide an account, in accordance with applicable law, of the ways in which we have, or may have, used or disclosed that personal information.
56. To the extent permitted under applicable law, and where it is fair and reasonable to do so, we may impose a charge to cover our costs in providing access to personal information.
57. In certain, limited circumstances, we may deny a person's request for access to their personal information and to an account of use and disclosure. Such requests will only be denied in accordance with applicable law and where reasonable to do so. For example, in some cases we may deny access because: providing access would result in a serious threat to a person's life or safety, or would unreasonably interfere with the privacy of others; we reasonably suspect unlawful activity or serious misconduct related to our operations, functions or activities and providing access would compromise our ability to take appropriate action; or denial of access is required or authorised by law or a court order.
58. If we refuse a request for access, we will provide the individual concerned with a written explanation of our reasons for the refusal, if it is lawful and reasonable to do so. We will also provide information about the process for making a complaint about our refusal.
59. Individuals wishing to request access to their personal information (or to the personal information of an individual for whom they have lawful authority to act) should contact the Province's Administrative Officer at admin@franciscans.org.au or call **+61-2-9369 9300**.



Correcting and Updating Personal Information

60. We will take reasonable steps to ensure that personal information we use or disclose is accurate, current and relevant, having regard to the purpose for which that information is being used or disclosed.
61. Individuals may ask us to correct or update their personal information (or the personal information of an individual for whom they have lawful authority to act) by writing to the Province's Administrative Officer at admin@franciscans.org.au or telephoning **+61-2-9369 9300**. We will correct/update personal information as requested unless we are satisfied, on reasonable grounds, that such a change should not, or cannot, be made.
62. Where lawful, necessary and reasonable to do so, we will notify third parties, to whom we have disclosed personal information, of a correction/update that is made to that information.
63. If we refuse to make changes to an individual's personal information, we will provide our reasons for refusal in writing (unless it is unreasonable to do so), together with information about the process for making a complaint about our refusal. We will also attach a statement to our record of that personal information noting the changes sought but not agreed to. Where lawful, necessary, and reasonable to do so, we will also provide that statement to third party recipients of the personal information.

Inquiries or Complaints

64. Inquiries or complaints about our Privacy Policy or our handling of personal information may be addressed to the Provincial Secretary at: provsec@franciscans.org.au or by telephoning the Provincial Office on: **+61-2-9369 9300**.
65. We are committed to responding to privacy inquiries and complaints in a timely and fair manner. We will acknowledge receipt of any privacy complaint and will endeavour to investigate and respond within periods (if any) set by applicable law.
66. Complainants who are not satisfied with the outcome of our investigation or our response can lodge a further complaint:
- in Australia, with the Office of the Australian Information Commissioner –
Tel: 1300 363 992
Fax: +61 2 9284 9666
Website: www.oaic.gov.au
 - in New Zealand, with the Office of the Privacy Commissioner –
Tel: 0800 803 909
Website: www.privacy.org.nz

Definitions

Australian Privacy Principles (APPs):

means the 13 principles attached to the Privacy Act 1988 (Cth) which govern standards, rights and obligations around the collection, use and disclosure of personal information in Australia.

Definitory (Definitors):

means the council of friars who are elected by the friar-delegates at the Provincial Chapter to advise the Provincial Minister on certain matters, and to approve certain matters, as required by the constitutions and statutes of the Franciscan Order of Friars Minor. The Provincial Minister and the Definitors are also Directors of the company, Franciscan Order of Friars minor.

Employee:

means anyone who is appointed to a paid position administered by the Franciscan Friars Holy Spirit Province, or by the Province's corporate civil entity in Australia, the Franciscan Order of Friars Minor, on a full-time, part-time, or contract basis.

Franciscan Personnel (or Personnel):

means all friars (as defined below), and all Franciscan employees and volunteers appointed to any position administered by the Franciscan Holy Spirit Province or by the Province's corporate civil entity in Australia, the Franciscan Order of Friars Minor.



Definitions (Cont'd)

Friar:

means any professed member of the Franciscan Friars Holy Spirit Province, any visiting Franciscan friar, any Franciscan friar on loan to the Holy Spirit Province, any candidate or trainee to become a friar (postulant or novice), and all friars from other Provinces while they are in the Province.

Health information:

means information about a person's physical or mental health, disability, health preferences, use of health services, or genetic information.

Ministry:

means all work done by friars to provide any form of pastoral assistance to others. Ministry takes many forms (for example, the provision of liturgical and sacramental services, spiritual guidance, teaching at a school or university, chaplaincy at a prison or hospital, therapy or counselling in a professional setting, and practical assistance and support). Within the Franciscan context, the most visible form of active ministry occurs within a parish setting.

Personal information:

means any information or an opinion (whether true or not) about a person that identifies that person, or from which that person's identity can reasonably be determined. In this Policy we have adopted the term 'Personal information' because it is the term used in legislation in Australia and Aotearoa-New Zealand.¹³

Provincial Minister:

means the leader of the Holy Spirit Province.

Provincial Secretary (company secretary):

means the friar elected by the Provincial Minister and Definitory for a specific role defined by constitutions, statutes and civil law. The principal role of the Secretary is to record all that is done by the Definitory, the Provincial Minister, to review all documents and acts pertaining to the whole Province, and to maintain the archives (GGSS Art. 218). The Provincial Secretary is accountable directly to the Provincial Minister and also acts as the Company Secretary for the civil entity, the company known as Franciscan Order of Friars Minor.

Sensitive information:

means information or an opinion (whether true or not) about a person's racial or ethnic origin, political beliefs, membership of a political association, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association or trade union, sexual orientation or practices, criminal record. Health information, genetic information, or biometric information.¹⁴

Volunteer:

means anyone who is appointed to a position administered by the Franciscan Friars Holy Spirit Province, or by the Province's corporate civil entity in Australia, the Franciscan Order of Friars Minor, on an unpaid or voluntary basis.

13 See *Privacy Act 1988* (Cth), s 6(1). This definition is largely consistent with the characterisation of personal information in other jurisdictions in the Province. Under New Zealand law, 'personal information' means information about an identifiable individual: *Privacy Act 2020* (New Zealand), s7(1).

14 See *Privacy Act 1988* (Cth), s 6(1). Privacy law in New Zealand does not separately define sensitive personal information.



Contact:

Franciscan Provincial Office

Franciscan Friars | Holy Spirit Province

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