

Australian Privacy Principle 8: cross-border disclosure of personal information

Sometimes when an APP entity discloses personal information the information will be received by a recipient who is not in Australia or an external territory. These disclosures are known as 'cross-border disclosures'. In addition to the limitations on disclosing personal information under APP 6, APP 8 establishes additional requirements for cross-border disclosures.


Examples:

Defence cross-border disclosures include when Defence provides personal information to:

- Australia's allies in course of a joint operation.
- To other military forces for the purpose of an exchange posting.
- For official visits to foreign countries.

Note: APP8 does not apply to a use of personal information, such as when Defence sends personal information to other parts of Defence that are overseas. For example, when Defence sends personal information to:

- Defence members in an area of operation or posted to RMAF Butterworth; or
- to a Defence Attaché.

See 'Use and disclosure' on the  [Important terms](#) page.

References to Australia and its external territories include the territorial seas of Australia and the territorial sea adjacent to the territory.

Before an APP entity discloses personal information about an individual to an overseas recipient, it must take such steps as are reasonable in the circumstances to ensure that the overseas recipient does not breach the APPs (other than APP 1) in relation to the information. This is often done by contract. However Defence's relationship with other countries and military forces is not usually based on contract, rather we operate on agreement between the two countries.

In these cases where Defence does not or cannot take steps as are reasonable in the circumstances to ensure that the overseas recipient does not breach the APPs, we need to look at the alternative options that may be available. These include the following:

- a. if the individual has given express consent and been informed that the APP entity cannot ensure that the overseas recipient does not breach the APPs;
- b. if the disclosure is required or authorised by or under an Australian law or a court/tribunal order;
- c. if a permitted general situation other than permitted general situation 4 and 5 applies;
- d. if the entity is an agency and the disclosure of the information is required or authorised by or under an international agreement relating to information sharing by the agency; or
- e. if the APP entity reasonably believes that the overseas recipient of the information is subject to a law or binding scheme that has the effect of protecting the information in a substantially similar way in which the APPs protect the information, and there are mechanisms that the individuals can access to take action to enforce the law or binding scheme.

Specific advice should be requested in relation to the use of these alternative options.