

Australian Privacy Principle 4: Dealing with unsolicited personal information

As discussed on the [APP 3](#) knowledge page, there are two APPs that concern the collection of personal information: APP 3 and APP 4. APP 3 specifically deals with the collection of solicited information; whereas APP 4 is limited to the collection of unsolicited information.

This page deals only with the collection of unsolicited personal information, however, when collecting unsolicited personal information, APP 3 will also apply.

The Office of the Australian Information Commissioner advises:

'Unsolicited personal information is information received by an APP entity where the entity has taken no active step to collect the information.'

Defence may receive unsolicited personal information from Defence personnel or external parties, including:

- when a Defence member or Defence APS employee makes a complaint (e.g. Redress of Grievance or Review of Actions);
- when members of the public make contact with Defence;
- when Defence has solicited some personal information from a person, but more personal information than was requested has been provided.

If an APP entity receives personal information and it did not solicit that information, the entity must, within a reasonable period of time determine whether or not it could have collected the information under APP 3-Collection of solicited personal information (see [APP 3](#) knowledge page).

If the unsolicited personal information is not contained in a Commonwealth record, and the personal information could not be collected under APP 3, the personal information must, as soon as practicable after the information was received, be destroyed or de-identified **if it is lawful to do so**.

The Office of the Australian Information Commissioner advises:

'A 'Commonwealth record' is likely to include, in almost all cases, all personal information collected or received by agencies. Where an organisation is a contracted service provider under a Commonwealth contract, the records created, managed or held by that organisation under the contract may also be Commonwealth records.'

As such, in most cases unsolicited personal information received by Defence is likely to be classed as a Commonwealth record. Therefore, such information should not be destroyed or de-identified and must be kept in accordance with the [Defence Records Management Policy Manual](#) (POLMAN 3).

Handling unsolicited personal information

Unsolicited personal information that cannot be destroyed or de-identified (e.g. the personal information is part of a Commonwealth record), must be handled in accordance with APPs 5 to 13. This would include taking reasonable steps to notify the individual that their information has been collected and the purposes for the collection.