



Information to be provided to a detainee about identification tests

Under the *Migration Act 1958* (the Migration Act), an authorised officer may require a non-citizen who is in immigration detention to provide one or more of the following personal identifiers:

- fingerprints or handprints of the person (including those taken using paper and ink or digital liveness scanning technologies);
- a measurement of the person's height and weight;
- a photograph or other image of the person's face and shoulders;
- the person's signature;
- any other personal identifier of a type prescribed by the Migration Regulations 1994.

Note: It is a matter for the authorised officer to determine which personal identifier(s) they require the non-citizen to provide.

The Department of Home Affairs (the Department) requires personal identifiers to assist in assessing your identity.

How will the Department obtain your personal identifier(s)?

Under the Migration Act, an identification test must not be carried out in a cruel, inhuman or degrading manner, or in a manner that fails to treat a person with humanity and with respect for human dignity.

The identification test WILL be carried out:

- by an officer authorised under the Migration Act to conduct identification tests;¹
- by an authorised officer of the same sex as you, if requested;
- in the presence of an independent person if you so wish and an independent person is readily available at the same place and is willing to attend the test within a reasonable time (unless you are a minor in which case your parent, guardian or an independent person must be present);²
- in the presence of an independent person, if reasonable force is used;
- in circumstances affording you reasonable privacy.

When someone other than the authorised officer needs to be present, the identification test will NOT be carried out in the presence or view of a person who is of the opposite sex if you have requested this and it is practicable to comply with this request.

In addition:

- an authorised officer may video record the identification test in certain circumstances;
- the authorised officer conducting an identification test may ask another authorised officer or an officer to help him or her to carry out the test.

Retesting

You may be required to provide the same type of personal identifier more than once in any one session if the personal identifier previously provided is unusable, or an authorised officer is not satisfied about the integrity of that personal identifier.

You may be required to provide the same type of personal identifier again on a separate occasion. This is because it may not always be evident during the carrying out of a test, or immediately afterwards, that the personal identifier is unusable. The authorised officer may need to seek authorisation from a Senior Authorising Officer for a retest.

Access to an interpreter

If required, an interpreter will be made available to you to help you understand the information provided concerning identification testing. The interpreter service may be provided by telephone.

Why does the Department collect personal identifiers?

The Department has authority under the Migration Act and the Migration Regulations 1994 to collect personal identifiers for a range of reasons, including but not limited to:

- identification and authentication of identity;
- improving the Department's procedures for determining visa applications and protection claims;
- enhancing the Department's ability to identify non-Australian citizens who have a criminal history or who are of national security or character concern;
- combating identity and document fraud in immigration matters;
- ascertaining whether protection visa applicants or offshore entry persons making claims for protection have had sufficient opportunity to avail themselves of protection before arriving in Australia;
- satisfying home governments of the identity of removees and deportees.

Your privacy

The Department respects your privacy. The Department is aware that the way information about you is used and managed can affect your life. It is important that the information the Department holds is accurate, up-to-date and relevant. It is also important that the information is used only for the reason it was collected.

Safeguards in respect of the collection, access, storage and disclosure of personal identifying information are in place. The Department's practices are monitored to ensure that your personal information is kept secure and confidential.

Important information about privacy

The *Privacy Act 1988* contains 13 Australian Privacy Principles which regulate the way that the Department collects and handles personal information. Information about how the Department collects, uses and discloses personal information for its key functions can be found in form 1442i *Privacy notice*. More information about the Department's general information handling practices (including form 1442i) can be found in the Department's Privacy policy at <https://www.homeaffairs.gov.au/access-and-accountability/our-commitments/privacy>

To whom can the Department give your personal identifying information?

The Department is authorised to disclose your personal identifiers and information relating to your name and other relevant biographical data to a number of agencies including law enforcement and health agencies and to other agencies who may need to check your identity with this Department. Where the Department obtains personal identifiers they will become part of your official record with the Department.

The Department is involved in international information exchanges with a number of countries pursuant to international agreements. These information exchanges may involve the sharing of personal identifiers, including facial images and fingerprint data. For further information refer to the Department's website <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/biometrics>

If, as a result of this sharing between countries, there is a match with your personal identifiers, the Department will disclose your biographical data, copies of travel and other identity documents or information from such documents, your immigration status and immigration history (which may include any immigration abuse and offences) and any criminal history information relevant to immigration purposes. The purpose of such disclosure would be to help confirm your identity and determine if you have presented to the Department and the other agency under the same identity and with similar claims.

For more detailed information about the circumstances in which your personal identifiers may be disclosed, you should read information form 1243i *Your personal identifying information*, which is available from the Department's website <https://immi.homeaffairs.gov.au/help-support/departmental-forms>

Use of reasonable force

An authorised officer may use reasonable force to enable an identification test to be carried out or to prevent the loss, destruction or contamination of any personal identifier or any meaningful identifier derived from a personal identifier.

However, force will NOT be used if you are a minor who is less than 18 years old, or if you are an incapable person, or if the personal identifier you are being asked to provide is your signature.³

Force will NOT be used unless:

- you have refused to allow the identification test to be carried out;
- all reasonable measures to carry out the identification test without the use of force have been exhausted; and
- use of force in carrying out the identification test is authorised by a Senior Authorising Officer.⁴

Your rights

If you believe that the Department has handled your personal information in a way that breaches our obligations in the Australian Privacy Principles, you can lodge a privacy complaint by:

Completing the online form available at <https://www.homeaffairs.gov.au/help-and-support/departmental-forms/online-forms/complaints-compliments-and-suggestions>

Writing to:

Department of Home Affairs
GPO Box 241
Melbourne VIC 3001
Australia

Your complaint will be investigated and you will be advised of the outcome. If you are not satisfied with the Department's response, you can lodge a privacy complaint with the Office of the Australian Information Commissioner (OAIC). For information about how to lodge a privacy complaint with the OAIC and how the OAIC investigates and resolves privacy complaints, please visit the OAIC website at <https://www.oaic.gov.au/privacy/privacy-complaints/lodge-a-privacy-complaint-with-us/> or contact the OAIC on 1300 363 992 (Monday to Thursday, 10am to 4pm AEST/AEDT).

Or you can write to the Commonwealth Ombudsman's Office using an online form available at Ombudsman's website www.ombudsman.gov.au/contact

Or call the free hotline - 1300 362 072

Home page www.homeaffairs.gov.au

General enquiry line Telephone **131 881** during business hours in Australia to speak to an operator (recorded information available outside these hours). If you are outside Australia, please contact your nearest Australian mission.

¹ Under the Migration Act (s.5(1)), an 'authorised officer' means an officer 'authorised in writing by the Minister or the Secretary for the purposes of that provision'. Under the Migration Act (s.5(1)), an 'officer' means:

- i an officer of the Department, other than an officer specified by the Minister in writing; or
- ii a person, other than a person specified by the Minister in writing, who is:
 - (a) an officer for the purposes of the *Customs Act 1901*; or
 - (b) a protective service officer for the purposes of the *Australian Protective Service Act 1987*;
 - (c) a member of the Australian Federal Police or of the police force of a state or territory; or
 - (d) any other person authorised by the Minister in writing to be an officer for the purposes of this Act; or
 - (e) any other person included in a class of persons authorised in writing by the Minister to be officers for the purposes of the Migration Act, including a person who becomes a member of that class after the authorisation is given.

² Under the Migration Act (s.5(1)), an 'independent person' means a 'person (other than an officer or an authorised officer) who:

- (a) is capable of representing the interests of a non-citizen who is providing, or is to provide, a personal identifier; and
- (b) as far as practicable, is acceptable to the non-citizen who is providing, or is to provide, the personal identifier; and
- (c) if the non-citizen is a minor – is capable of representing the minor's best interests'.

³ Under the Migration Act (s.5(1)), an 'incapable person' means a person who is 'incapable of understanding the general nature and effect of, and purposes of, a requirement to provide a personal identifier'.

⁴ Under the Migration Act (s.261AK(10)), a 'senior authorising officer' means an 'officer whom the Secretary has authorised, or who is included in a class of officers whom the Secretary has authorised, to perform the functions of a senior authorising officer.'