

# ACT Nudist Club Inc. –Privacy Policy Guideline

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## ACT Nudist Club Inc – Privacy Policy Guideline

### Why have a privacy policy?

In Australia, Federal legislation imposes obligations, known as the ‘Australian Privacy Principles’, on government agencies and some private sector bodies, to keep personal information safe and restrict access to it. There is corresponding ACT legislation, more limited in scope, applying just to personal information held by public sector agencies.

‘Personal information’ means—

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.

The ACT Nudist Club Inc, as a relatively small social club, is outside the scope of the legislation. Nevertheless, in accordance with ss 54(3)(b) and 74(6) of its Constitution, the Club has adopted a privacy policy guideline of general application. Its purpose is to assist members and visitors to understand their and the Club’s privacy obligations under the Club’s Constitution, and the circumstances in which members may access Club records containing personal information.

It is a long-established principle in the Club and the nudist movement, that only the individual who is a nudist has the right to disclose that fact outside the Club. And within the Club, club members are expected to respect the boundaries of privacy of their fellow members and of visitors. Those principles are reflected in ss 80 and 81 of the Club’s Constitution.

Personal information of or about a member or non-member may not be disclosed to another member or non-member except in limited circumstances specified in the Constitution. This obligation applies while a person is being considered for membership and during and after membership of the Club. The ACT’s *Associations Incorporation Act 1991* contains provisions to uphold club rules. It also provides for external access, in specific circumstances, to club records that potentially may include personal information.

References in this guideline to section numbers (‘s No.’ or ‘ss No.’) are to sections of the Club’s Constitution unless stated otherwise.

## Personal information held by the Club

The Club collects and holds the following kinds of personal information—

1. **Membership application process information.** Information collected when people express interest in membership or apply for membership. This may include people's names, addresses and telephone contacts; recreational interests and skills, names of family members who visit the Club; experience of other nudist clubs; personal references; and information that may be collected from other nudist clubs, the Australian Naturist Federation, family members, referees and community associations or their representatives.

The Club also holds records of any comments made by members in response to being notified of the names of applicants for membership and records of decisions made by the Committee on expressions of interest and applications for membership, as well as Committee decisions about offers and grants of honorary life membership and offers and grants of membership to the adult children of members.

2. **Membership subscriptions and membership records.** Information about amounts owing and payments made for membership subscriptions; information about the length and status of memberships; and contact information, including mailing lists.

The Club is required by the Associations Incorporation Act, s 67, to hold a (non-public) register of members and must make the register available for inspection by members at reasonable times.

3. **Visits information.** Records of visits to the Club by members and visitors. Records of accommodation bookings. Records of payments to the Club by members and visitors in relation to accommodation and day visits to the Club.
4. **Complaints information.** Records of complaints made by or against members, Committee members and the Committee. Records of complaints made by or against visitors.
5. **Records of disciplinary processes against members,** including documents used in those processes containing personal information.
6. **Committee membership and particulars of the Public Officer.** Records of the election or appointment and membership of the Committee and of the appointment of the Public Officer.

The Associations Incorporation Act, in ss 9 and 11, requires the Club to maintain and lodge records of its officers with the Registrar-General. These records are included in a public register kept by Access Canberra. The particulars required are set out in forms released by Access Canberra – see [https://www.accesscanberra.act.gov.au/app/answers/detail/a\\_id/1504/kw/Incorporated%20associations](https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/1504/kw/Incorporated%20associations).

At the date of preparation of this guideline, the forms make provision for each Committee member to state the officer's name, current address and date of appointment.

In the case of the Public Officer, the forms make provision for the Public Officer to state the officer's name; current address; home, work and telephone contact numbers and email address.

7. Site allocations and fees. Records of the allocation of sites to members and of amounts owing for and payments of annual site fees.
8. Communications with members and visitors in relation to the above or other matters.
9. Communications with legal advisers in relation to any matters involving the personal information of members or visitors.
10. Photographs and video or audio recordings of club activities and events involving club members and visitors.

From time to time, the Club arranges for a member or Committee member to photograph and/or video club activities and events or personnel (i e, the Committee or others) for inclusion in newsletter items, photo displays within the Club or club records held for posterity, such as photograph albums (whether or not electronic) or video screenings of club activities and events at club social functions. Some photographs or video recordings may be selected for the Club's Facebook page to promote the Club to the public or to better inform readers about its activities.

The Club may also make audio recordings of the personal impressions or recollections of members and visitors in relation to the Club, club activities and nudism. From time to time the Committee may seek the permission of those attending to make an audio recording of a meeting of the Committee or, rarely, of members, to assist in the preparation of a written record.

## 11. Club Facebook pages and Google listing.

The Club maintains 2 **Facebook** pages – a public page and a separate page restricted to club members.

The public page, 'ACT Nudist Club', contains club contact details and, from time to time, the Club may use it to promote events to which members of the general public are invited. For that purpose, the Club may select photographs of club activities or events to post to the page. Such photographs would not contain the images of individuals unless the Club first obtains written consent to the posting of those images from the individuals concerned.

If people post on the page that they 'like' or 'follow' the page, the Facebook profile names attached to those 'likes' and 'follows' appear on the Club's public page. Anyone looking at the page can then interrogate Facebook further for any personal information shown, depending on their settings, on the corresponding Facebook profiles of the 'likers' and 'followers'.

Subject to any intervention by the Club's Facebook page administrators, the content of the Club's restricted Facebook page is determined by participants. Typically, it includes news of interest, descriptions of events, photographs and travel suggestions. Access to the page is subject to application to the page administrators (at date of issue, c/- '[president@actnc.org.au](mailto:president@actnc.org.au)').

**Google** has a listing for the 'ACT Nudist Club Inc' that comes up when people search for the Club on the web. The Google web listing is devised by Google and is not administered by the Club. The listing contains contact information (address and telephone) for the Club and provision for photos and reviews. Depending on the reviewer's settings, the reviews may disclose the reviewer's name and image.

## 12. Other information that may be subject to rights of external access.

Under the Associations Incorporation Act, s 75, the Club's auditor has the right to require access to the accounting records and other records of the Club.

For the purposes of investigating a suspected contravention of the Act involving fraud, dishonesty or mismanagement, the Registrar-General has power to require production of club books and bankers' books and, subject to a significant qualification, club books held by a lawyer. Investigating officers are bound by a secrecy provision. See Part 8 of the Act.

The Club is subject to directions of a court in the event of legal proceedings.

### Overarching provisions in the Club's Constitution and governing legislation

The Committee is responsible for controlling and managing the Club's affairs (s 39).

The Committee is obliged to operate so as to maximize the contributions of all members to its work and decision-making, except in relation to matters of a confidential nature, including the personal circumstances and information of members, unless specifically provided for in the Constitution (s 8). The Club must comply with the rules of natural justice in its decision-making (s 12).

Privacy provisions in the Club's Constitution bind the Club and all members, potential members and former members of the Club – see ss 80 and 81. In addition, ss 43, 45, 47, 74, 75, 75A and 76 impose specific obligations on the Committee to maintain and preserve club records and the confidentiality of designated records as far as permitted by law.

### Applying the Constitution and governing legislation to particular types of personal information

- 1. Membership application process information.** People who express an interest in membership of the Club and applicants and familial candidates for membership are at liberty, by approaching the Membership Secretary, to correct information in any documents that they have submitted. They are also entitled to be informed of the Committee's decision on their expression of interest or application for membership. Applicants may approach the Membership Secretary or Treasurer at any time to verify payment of a membership application fee.

Otherwise, subject to limited exceptions set out in ss 80 and 81, they are not entitled to any documents made or obtained by the Committee in assessing their interest in or application for membership under ss 14, 15, 16 or 20(8). This is to secure the privacy and reputation of Club members and interested persons, applicants and familial candidates for membership and the confidentiality of personal records of and about them. It is also to maintain any claim

by the Club of client legal privilege in respect of its dealings with legal advisers in relation to those records.

- 2. Membership subscriptions and membership records.** Club members may approach the Club Treasurer or Membership Secretary to resolve any queries about amounts owing and payments made for their own membership subscriptions or particulars of the status and currency of their memberships and contact information held in membership records.

The Club would not include addresses or other contact details in the register of members required by the Associations Incorporation Act to be available for inspection by members – the register would simply be a list of club members' names.

- 3. Visits information.** Records of visits to the Club by members and visitors are generally on display in attendance books. Archived records of visits may be made available for inspection only by financial members in accordance with s 74, subject to the limitations in ss 80 and 81.

Members and visitors may verify records of their own bookings for and payments to the Club in relation to accommodation and day visits to the Club by approaching the Accommodation Officer or Treasurer, respectively.

- 4. Complaints information.** Records of complaints made by or against members, Committee members and the Committee and complaints made by or against visitors may only be made available to members or non-members to the limited extent set out in ss 80 and 81, which provide for limited disclosure only of the substance of a matter if the Committee decides to pursue it.

The Committee would normally take legal advice before further dealing with complaints by members against fellow members, Committee members or the Committee where the complaint cannot be resolved amicably. See ss 33A-33C.

- 5. Records of disciplinary processes against members, including documents used in those processes containing personal information.**

These records generally are not available to members except in accordance with ss 34(2)-(4) and 80 of the Club's Constitution. These provisions allow limited disclosure to the extent specifically set out in the Constitution and consistently with resolving the matter in

accordance with natural justice. The Committee would normally take legal advice beforehand.

6. **Committee membership and particulars of the Public Officer.** Committee members and their positions are listed in the Club's newsletter. Requests for records of the election of members may be made by financial members only and should be directed to the Club Secretary. In relation to the public register kept by Access Canberra under the Associations Incorporation Act, Committee Members and the Public Officer may apply to the Registrar-General to keep their addresses confidential. Alternatively, and simply, they may use the Club's postal address in the ACT as their address when completing forms for the public register. Similarly, the Public Officer could use the officer's club email identity as an email address on relevant forms.
7. **Site allocations and fees.** Records of the allocation of a site to a member and of amounts owing for and payments of annual site fees by that member can be accessed on application to the Secretary or Treasurer by the member concerned.
8. **Communications with members and visitors in relation to the above or other matters.** Members and visitors can access clean (i.e., without notations) copies of communications between them and the Committee on application to the Secretary.
9. **Communications with legal advisers in relation to any matters involving the personal information of members or visitors.** To preserve the client legal privilege of the Club, records of these communications will only be available to Committee members deliberating on the issue on which legal advice is sought.
10. **Photographs and video or audio recordings of club activities and events involving club members and visitors.**

The photographer or video or audio-maker must always ask the permission of members and visitors before photographing or making video or audio recordings of them.

The photographer or video-maker may offer to pixelate an image of a subject included in a photograph or video if the subject declines to consent to recording the subject's image.

The Club may make available consent forms supplemented by other means, such as coloured wrist bands, to enable members and visitors to readily indicate whether *or not* they consent to being

photographed or recorded by video or audio for club purposes identified in this guideline.

The maker of an audio recording will indicate, at time of seeking consent to make the recording, whether or not the recording will be retained once a written record of a meeting has been completed.

This guideline is to be read with, and does not supersede, the Club's by-laws, which apply to photography and video and audio recordings for club or private purposes, and provide as follows—

Photography and the making of video and audio recordings are only permitted with the consent of the subject. Photos and video and audio recordings must not be published or distributed (in any medium) without the written permission of the subject.<sup>1</sup>

#### 11. Club Facebook pages and Google listing.

The Club must seek prior written consent before posting images of people or any other personal information to Facebook or other social media. Photographs uploaded by the Club or members must not contain the images of children, whether pixilated or not.

Use of both **Facebook** pages is subject to Facebook's terms of service, at '<https://www.facebook.com/legal/terms>'. For the uses to which Facebook can put information uploaded by users, see the section entitled 'The permissions you give us', especially 'Permission to use content that you create and share' and '2. Our Data Policy and your privacy choices'. Data Policy is also accessible at '<https://www.facebook.com/privacy/explanation>'.

For a useful critique and explanation of what Facebook's policies mean (in the opinion of Quartz media), see '<https://qz.com/1266835/facebook-terms-of-service-translated-so-you-understand-your-data-and-privacy-settings/>'.

The **Google** web listing is not administered by the Club.

*The upshot is that club members and visitors using Facebook and Google and any other social media applications need to be careful not to infringe their confidentiality obligation under the Club's Constitution and by-laws towards fellow members and visitors. That obligation extends to not disclosing on Facebook or Google or other*

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<sup>1</sup> Proposed wording of revised by-law 23 in accordance with amendments put forward by the Committee in January 2019 and further amended in response to consultation with members on 23 February 2019.

*applications, via their personal profiles, personal information about clubmates or visitors without their written consent.*

*Club members are asked to bring problematic content on social media applications to the notice of the Club's Facebook page administrators (c/- [president@actnc.org.au](mailto:president@actnc.org.au)) or Information Systems Officer.*

## **12. Other information that may be subject to rights of external access.**

The Club reserves the right to take legal advice and/or to require undertakings to preserve the confidentiality of personal information, before producing documents to external parties.

Lawyers representing the Club may refuse to produce books they may hold containing privileged communications without the consent of the client (the incorporated association – i e, the Club), subject to processes specified in s 104(2) of the legislation for the Registrar-General to resolve an impasse directly with the client association (on which the Club would normally take legal advice).

As stated above, the Club is subject to directions of a court in the event of legal proceedings.

## **Protection of members and visitors against email spam and other unwanted communications**

The Club limits its email correspondence to members and visitors to sending emails for which consent, express or that can be reasonably inferred, has been given.

The Club uses its newsletter and occasional emails to promote to members its social activities, recent and forthcoming, and to notify members of club business that concerns them, such as general meetings, annual reports, club news items, officers' reports and proposed rules and guidelines. The newsletter typically also includes members' notices (e g, van sales) and links to other clubs' newsletters.

The Club's fundamental objects include furthering the cause of nudism as a recreational and social activity and establishing and maintaining a secure and congenial environment for social nudism (s 6). People are only admitted to membership of the Club if they satisfy the Committee that they hold a commitment to the objects of the Club and have actively and harmoniously engaged in social interaction in the Club as a nudist.

Accordingly, the Club takes ongoing membership of the Club to indicate members' consent to receiving ongoing communications from the

Committee. The Club expects members to make available and maintain an email address or a satisfactory alternative means of contact for receipt of communications. Members, having any concerns regarding the scope or content of communications from the Club, are expected to raise their concerns in the first instance with the Membership Secretary.

People who express interest in membership, applicants for membership and visitors making online bookings will be asked to consent to receiving further communications from the Club following their initial contact, unless and until they elect to unsubscribe, subject to the position outlined above if they become members.

Visitors, including any non-members who do not wish to pursue an interest in or application for membership, may unsubscribe from receiving further communications, including emails, at any time.

#### Transition to cloud-based storage of club records and means of communication

The Club is exploring and risk-assessing transitioning to cloud storage of its records and using cloud-based alternatives to email as a means of communicating with members and visitors. Club members experienced an instance of cloud communication in the circulation of the Club's November 2018 newsletter, which was hosted by the [spark.adobe.com](http://spark.adobe.com) website.

With identification of appropriately secure services supplemented by back-up alternatives, the aim is to afford the Club greater security over the personal information and other confidential information the Club receives and uses. For members and visitors, this approach would aim to bring about greater security over communication of personal information.

In its dealings with members, visitors and suppliers, the Club is subject to Australian law. However, use of overseas cloud-based hosts would mean that its use of their services may be subject to the laws of foreign jurisdictions.

#### How to deal with a dispute as to the application of this policy

The Club expects that members, all of whom were consulted on the exposure draft of this privacy policy guideline, will adopt and adhere to the policy, when finalized, so as to govern how the Club may keep and use their personal information.

People who express interest in membership, applicants for membership and visitors making online bookings will be asked to give their consent in similar terms.

Members or visitors having a concern in relation to the implementation of any aspect of this policy in a specific matter should approach the Membership Secretary in the first instance to discuss their concerns so that the issue can be determined by the Committee, taking into account legal and technical advice if necessary.

Under s 53 of the Associations Incorporation Act, associations like the Club and their members have rights of access to the courts to enforce rights and obligations arising under association rules (i e, the Club Constitution and by-laws).

However, under s 9A of the Constitution, in the interests of the Club and its limited resources, members are required to work together harmoniously. The Club and members must exhaust all complaint and dispute resolution processes provided for in the Constitution before recourse to litigation. Apart from specific processes in the Constitution, the Club and members are expected to avail themselves of alternative dispute resolution processes including independent mediation or arbitration before recourse to litigation.

**Date of effect of this policy guideline: 21 March 2019.**