



PUBLIC TRUSTEE AND GUARDIAN

Information Privacy Act 2014 (ACT)

Privacy Policy

About this policy

This privacy statement sets out how the Public Trustee and Guardian (PTG) manages personal information when performing its functions.

This policy is written in simple language. The specific legal obligations of PTG when collecting and handling your personal information are outlined in the [Information Privacy Act 2014](#). (IP Act) and in particular in the Territory Privacy Principles found in that Act.

This statement complies with Territory Privacy Principle 1.3 of the IP Act.

We will update this policy when we change our information practices. Updates will be publicised on our website and through our email lists.

Overview

PTG collects, holds, uses and discloses personal information to carry out functions or activities under the [Public Sector Management Act 1994](#); the [Public Trustee and Guardian Act 1985](#); the [Information Privacy Act 2014](#); the [Territory Records Act 2002](#) and the [Health Records \(Privacy and Access\) Act 1997](#).

These functions and activities include -

- Will services (preparing and acting as executor)
- Enduring Powers of Attorney services (preparing and acting as attorney)
- Estate Administration (as executor or administrator)
- Trust Administration (under Court damages award, testamentary trusts or deed of trust)
- Guardianship Services for persons with a decision-making disability
- Financial Management for persons with a decision-making disability
- Attorney services under Enduring Power of Attorney
- Funds administration/investment for government and non-government trusts
- Asset management under the [Confiscation of Criminal Assets Act 2003](#)
- Unclaimed Money - administration under the [Unclaimed Money Act 1950](#)
- Examination of accounts prepared by private financial managers appointed by the ACT Civil and Administration Tribunal (ACAT)
- Administration of GreaterGood - The Capital Region Community Foundation
- Chair of the Official Visitor's Board established under the [Official Visitor Act 2012](#)

Remaining anonymous

On most occasions when you deal with PTG (eg when calling to make an enquiry) you have the option of remaining anonymous (not telling us your name) or using a pseudonym (a made up name).

However, sometimes we will need your name and details to provide services or assistance to you, or where we may only be able by law to help you on disclosure of your name.

If we need your name in order to help you we will let you know why we need your personal information and what it will mean for you if the information is not collected.

Collection of your personal information

At all times we try to only collect personal information where that information is reasonably necessary for, or directly related to, one or more of our functions or activities.

Normally PTG will not collect sensitive information (such as sexual orientation or criminal history information) without your consent.

Sometimes we may collect sensitive personal information without your consent, such as when it is required or authorised by a law, or court or tribunal order, or is necessary to prevent a threat to the life, health or safety of one or more individuals, or to public health or safety.

PTG will not collect personal information about you if it is not required

How do we collect personal information?

PTG will only collect information by lawful and fair means.

The main way PTG collects personal information about you is when you give it to PTG.

Your personal information may be collected in a variety of ways, including through paper or online forms, in correspondence to and from you as well as email, over the telephone and by fax.

PTG collects personal information when -

- we are required or authorised by law or a Court or Tribunal order to collect the information
- you participate in community consultations, forums or make submissions to us, and you consent to our collection of your personal information
- you contact us to ask for information (but only if we need it)
- you make a complaint about the way we have handled a Freedom of Information (FOI) request or seek a review of an FOI decision
- you ask for access to information PTG holds about you or other information about PTG's operation/s.

We may also collect contact details and some other personal information if you are on our committees or participating in a meeting or consultation with us.

Normally we collect information directly from you unless it is unreasonable or impracticable to do so. In certain circumstances, for example where it is required by law, we may also

obtain personal information collected by other Australian, state and territory government bodies or other organisations.

We also collect personal information from publicly available sources where it is reasonably necessary for, or directly related to our functions.

Types of information we collect and hold

At all times PTG tries to only collect the minimum information that PTG needs. The personal information we collect and hold will vary depending on what we require to perform our functions and responsibilities. It may include -

- information about your identity (eg date of birth, country of birth, passport details, visa details and drivers licence)
- your name, address and contact details (eg phone, email and fax)
- information about your personal circumstances (eg age, gender, marital status and occupation)
- information about your financial affairs (eg payment details, bank account details, and information about business and financial interests)
- information about your employment (eg applications for employment, work history, referee comments and remuneration)
- information about assistance provided to you under our assistance arrangements.
- Information about your health.

Sensitive information is handled with additional protections under the IP Act and [Health Records \(Privacy and Access\) Act 1997](#).

Sensitive information is information that is about an individual's -

- racial or ethnic origin
- political opinions
- membership of a political association
- religious beliefs or affiliations
- philosophical beliefs
- membership of a professional or trade association
- membership of a trade union
- sexual orientation or practices
- criminal record
- genetic information
- biometric information (including photographs, voice or video recordings of you)

Notice of collection

When PTG needs to collect personal information from you we will notify you about -

- who we are and how you can contact us
- the circumstances in which we may or have collected personal information
- the name of the law that requires us to collect this information (if any)
- the purposes for which we collect the information
- how you may be affected if we cannot collect the information we need
- the details of any agencies or types of agencies which we normally share personal information with, including whether those recipients are overseas, and which countries those recipients are located in
- that we have a Privacy Policy explaining how we handle your information and deal with complaints about our information handling
- how you can access the Privacy Policy.

Social Networking Services

If PTG uses social networking we will note the information collected, purposes, uses of information and that social network may also collect information in accordance with their own privacy policies.

Email lists

If PTG manages subscriber email lists we will note the purpose of the email lists, use of information and how to unsubscribe.

Use and disclosure

PTG will not use your personal information for a secondary purpose, or share your personal information with other government agencies, private sector organisations or anyone else without your consent, unless an exception applies.

Exceptions are available a number of circumstances including when -

- you would reasonably expect us to use the information for the secondary purpose that is related (or directly related – in the case of sensitive information) to the original purpose for which the information was collected;
- the use or sharing of information is legally required or authorised by an Australian law, or Court or Tribunal order;
- the collection is reasonably necessary for an law enforcement-related activity such as the prevention, detection, investigation prosecution or punishment of criminal offences or breaches of the law; intelligence gathering, surveillance, conduct of protective or custodial services;
- we reasonably believe that collection is necessary to lessen or prevent a serious threat to the life, health or safety of any individual, or to public health or safety;
- we have reason to suspect unlawful activity, or misconduct of a serious nature, that relates to our functions and we reasonably believe that collection of the information is necessary in order for us to take appropriate action; and
- we believe that the collection is reasonably necessary to help locate a person who has been reported as missing.

If PTG has this information, it is allowed to provide your biometric information (such as your fingerprints or photograph) or your biometric templates (digital representations of your distinct characteristics) to an enforcement body (like the Australian Federal Police, Department of Immigration) if we comply with any guidelines made by the Information Privacy Commissioner.

PTG may also disclose personal information to Commonwealth intelligence agencies where that disclosure is authorised by the head of the intelligence agency and the agency certifies that the collection of the personal information from the PTG is necessary for its functions.

PTG may disclose your personal information including, but not limited to the following -

- for the purposes for which it was collected;
- where you have consented to the use or disclosure we may do this in writing, over the phone or on our website;
- where we are permitted, authorised or required to do so by law;
- to assist us in effectively providing services and products to you;
- to enable us to confirm your identity when dealing with you and generally to maintain our relationship with you;

- to assist in the proper functioning and development of our operations (for example, to ensure we act within requirements relating to risk management, trustee, fiduciary and any other legal obligations;
- for PTG research and planning purposes, such as administering, managing and developing our services and products; and,
- to inform you about services and products we think might interest you.

We may also disclose your personal information to other persons or organisations -

- where they are a related entity eg the ACT Human Rights Commission and the ACT Civil and Administrative Tribunal (ACAT);
- where we have contracted an external person or organisation to provide support services (such as third party suppliers, service providers providing archival, printing and posting, consulting, technology and security services, mail houses, and our advisers, agents and representatives) and that person or organisation has agreed to observe our privacy standards;
- where that person or organisation assists us with any of our financial planning, trustee, custodial or personal investment products or services, including superannuation and funds management organisations and their advisers, organisations in which you invest and other persons or organisations involved in our normal business practices;
- as permitted, authorised or required by law to do so (for example, where information is required by authorities that regulate us, or in response to Court Orders, or where we are obliged by law to decide how we are to act in a person's interests);
- who are your advisers or representatives, including financial and legal advisers, their service providers and entities to which they are responsible;
- where that person or organisation wishes to acquire or sell an interest in all or part of our assets and business, and any advisers to such a person or organisation;
- who are involved in maintaining, reviewing and developing our business systems, procedures and infrastructure including testing and upgrading our computer systems; and,
- involved in the payments system including institutions, merchants and payment organisations;
- in connection with estates, to records-holders and other parties who may be able to assist in the course of genealogical or other research to locate beneficiaries, or other persons who are, or were associated with our clients;
- some of the third parties to whom we may disclose personal information may be located in other countries. While those third parties will often be subject to confidentiality or privacy obligations, you agree (where you consent to this privacy policy) that they may not always follow the particular requirements of Australian privacy laws;
- some of the software systems that PTG uses involve personal information being transferred to and held in, data centres in other localities and may, in future, be held in data centres overseas.

Sharing information with service providers

PTG contracts with service providers to support the PTG to carry out specific activities and functions of the PTG.

In some circumstances it may be necessary for PTG to share personal information with these service providers to enable them to perform their functions efficiently and effectively.

In these situations we protect personal information by only entering into contracts with service providers who agree to comply with Territory requirements for the protection of personal information.

Disclosure of personal information overseas

In some circumstances PTG may need to share or store information with overseas recipients.

If this disclosure is necessary we will take reasonable steps before disclosing the information to ensure that the recipient treats the personal information with the similar standard of care as is required by the IP Act.

In some cases, the information will already be sufficiently protected under the law governing the overseas recipient, and you can access mechanisms to enforce those protections.

If it is practical and reasonable to do so we will obtain your consent to overseas disclosure. However, there may be situations where we are unable, for example, where we share information as part of a law enforcement activity.

The potential countries with which we may disclose information is exhaustive given the nature of our business. For example, may be dealing with beneficiaries in an estate that may potentially be resident in any country. There may be assets in a deceased estate located in any other country. We may also need to communicate with foreign governments in respect to issues such as pensions, birth, death and marriage certificates etc. Our genealogical staff regularly communicates with overseas organisation in respect to identification and location of individuals.

Quality of personal information

PTG is required to take reasonable steps to ensure that the personal information we collect is accurate, up-to-date and complete.

Personal information we use or disclose must also be relevant for the purpose for which we use or disclose it.

In some circumstances and if it is appropriate, we can assist you to correct your personal information held by us if it is no longer accurate, up-to-date and complete.

Storage and security of personal information

PTG is required to take reasonable steps to ensure that personal information it holds is safe and secure.

We strive to protect your personal information from misuse, interference or loss and from unauthorised access, use, modification or disclosure in accordance with the IP Act.

The Territory Records Act establishes frameworks for the management of your personal information if it is held within PTG's files or data systems.

Our IT systems employ comprehensive protections to guard against unauthorised access. Paper-based files are stored securely.

As a part of our general practice personal information is only available to staff who need to have access in order to perform their roles.

Accessing your personal information

In accordance with the IP Act (Territory Privacy Principle 12) you have the right to ask for access to personal information that PTG holds about you.

If you contact us to request access to your personal information we must provide you with access to your information in an appropriate manner, if it is reasonable and practicable to do so.

If PTG refuses access, we must respond to your request in writing within 30 days telling you why we are unable to provide you with access to that information.

We will not charge you any fees for making the request or providing you with access.

You also have the right under the [Freedom of Information Act 1989](#) to request access to documents that we hold and ask for information that we hold about you to be changed or annotated if it is incomplete, incorrect, out-of-date or misleading.

Correcting your personal information

If you ask PTG to correct your personal information, we must take reasonable steps to correct the information if we are satisfied that it is incorrect, inaccurate, incomplete irrelevant, out-of date or misleading.

If we agree to correct information and that information has previously been shared with another agency, you may request that we notify the other agency of the possible need for them to correct that information.

There may be reasons why we refuse to correct that information, for example if we are required or authorised by law not to correct the information.

If we refuse to correct the information we must give you written notice of why we have refused to correct your information and how you may complain about our decision, within 30 days.

If we refuse to correct your personal information, you can ask us to attach or link a statement that you believe the information is incorrect and why to the information.

We will not charge you any fees for making the request for correction, correcting the information or attaching a statement to the personal information.

How to make a complaint

Complaints about how PTG has managed your personal information need to be made in writing to the contact details below. We are also able to assist you to lodge your complaint if required.

We will consider your complaint to work out how we can resolve your issue satisfactorily.

We will tell you promptly that we have received your complaint and then respond to the complaint within 30 days.

If you are not satisfied with our response you may ask for a review by the Public Trustee and Guardian or you can make a formal privacy complaint to the Office of the Australian Information Commissioner under section 34 of the IP Act.

The Office of the Australian Information Commissioner is an independent body that will assess your complaint and can make a finding that our actions are an interference with your privacy. If your complaint is upheld by the Commissioner you may be able seek a remedy in the ACT Magistrates Court.

How to contact us

You can contact us by:

Email: ptg@act.gov.au
Telephone: (02) 6207 9800
Facsimile: (02) 6207 9811
Post: PO Box 221, Civic Square ACT 2608

Assisted Contact:

National Relay Service:

- TTY users phone
- Speak and Listen users phone
- Internet relay users connect to the NRS:

Translating and Interpreting Service -

Apart from the local call cost these are free services for you.