



PRIVACY POLICY

Version 2.0

JANUARY 2025

OUR VALUES

SERVICE: A client service focus achieved by teamwork across the whole organisation.
RESPECT: Personal and professional respect for each other and our clients
INTEGRITY: Open, honest, and ethical service delivery.

OUR GOALS

OUR CLIENTS: Our clients are central to everything we do.
OUR STAKEHOLDERS: Strong and trusted relationships with stakeholders
OUR PEOPLE: A committed, capable and engaged workforce.
FIT FOR PURPOSE: A sustainable business model meeting the needs of the Tasmanian community.

We will provide our services with empathy, dignity, and respect. We will have our clients at the centre of everything we do. Sound governance, communication and a responsive and personable culture will underpin our work at Public Trustee.

VERSION DATE	VERSION NUMBER	DESCRIPTION OF THE CHANGE
2020	1.0	New document introduced.
January 2025	2.0	Changes made in line with policy review schedule.

SUMMARY

The purpose of this Policy is to govern how the Public Trustee collects, uses, discloses, releases and protects private and personal information.

APPLIES TO

This Policy applies to:

- The Board
- The CEO
- Managers
- Employees

The Policy will also apply to third parties the Public Trustee engages, such as contractors and consultants.

POLICY STATEMENT

The protection of privacy of personal information is essential for managing sensitive client information and maintaining the public trust, that is, the professionalism and reputation of the services of the Public Trustee.

LEGISLATION

The *Public Trustee Act 1930* (Section 8) stipulates that all employees are bound by confidentiality requirements, except as is necessary in the performance of their duties, or as authorised by law.

The *Personal Information Protection Act 2004*, (the Act). The Act governs the way the Public Trustee collects, holds and discloses information. Schedule 1 of the Act details the principles for compliance to be upheld by all employees of the Public Trustee. In addition to compliance with the Act, from time to time, the Public Trustee may be subject to the requirements of the Privacy Act 1988 (Commonwealth).

The *Guardianship and Administration Act 1995*, Section 5(i) details the ways in which the personal and social well-being of a person is promoted by 'respecting the person's right to privacy and to have contact with and correspond privately with others.'

Australia's compliance with the *United Nations Convention on the Rights of Persons with Disabilities* (UNCRPD) includes Respect for Privacy (Article 22) was assessed by the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability*. The Research report investigates case studies regarding the right to privacy of medication information and protection from misuse of that information.¹

¹ Prof. Ron McCallum, (2020). The UNCRPD: An Assessment of Australia's Level of Compliance. Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, October 2020, [Research Report](#).

This policy is to be read in concert with the Public Interest Disclosure Policy and Procedure and the Information Governance Framework (2025)

DEFINITIONS

personal information encompasses a broad range of information under the *Privacy Act 1988 (Cth)*. For example:

- 'sensitive information' (includes information or opinion about an individual's racial or ethnic origin, political opinion, religious beliefs, sexual orientation or criminal record, provided the information or opinion otherwise meets the definition of personal information)
- 'health information' (which is also 'sensitive information')
- 'credit information'
- 'employee record' information (subject to exemptions), and
- 'tax file number information'.

The [Guardianship and Administration Act 1995](#) provides further details on personal matters that may be subject to privacy laws and the protection of confidential client information must be prioritised. Part 1. Section 3(1):

personal matter, in relation to a person, means a matter relating to the personal affairs or lifestyle of the person, including, but not limited to, the following matters:

- (a) where and with whom the person lives, whether permanently or temporarily;
- (b) who may contact (whether by post, telephone, or electronic or other means) or visit the person, including –
 - (i) restrictions on contact with the person or visits to the person that are necessary to promote the personal and social well-being of the person; and
 - (ii) the prohibition on contact with, or visits to, the person by any person if that contact or those visits would have an adverse effect on the person;
- (c) the provision of care services to the person;
- (d) what education, training or work the person undertakes;
- (e) except as provided under [Parts 5A](#) and [6](#), consenting to or refusing or withdrawing consent to the provision of health care or medical or dental treatment to the person;
- (f) except as provided under [Part 6A](#), consenting to or refusing or withdrawing consent to the conduct of health and medical research in relation to the person; [and]
- (g) any legal matter that relates to the personal affairs of the person.

Supported Decision Making.

The Public Trustee upholds Supported Decision Making, where the clients' rights, will and preferences must be respected and upheld, including their right to privacy. This includes their decision to withhold personal information from any person, whether an employee, person responsible, or service provider, unless it is 'necessary to prevent or

lessen a serious and imminent threat to the life or health of any individual and the individual to whom the information relates.’²

Section 8 (c) of the *Guardianship and Administration Act 1995* requires that ‘the views, wishes and preferences of a person with impaired decision-making ability in respect of decisions are to be respected and used to inform those decisions.’ This includes decisions regarding the confidential sharing of client information with other support agencies, by obtaining the client’s consent, wherever possible.

Right to Privacy. The *United Nations Convention on the Rights of Persons with Disabilities* (UNCRPD) includes Respect for Privacy (Article 22), and is defined by the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* as; ‘The ability to control information, particularly knowledge of disability status, is essential for persons with disabilities to maintain autonomy and reduce the risk of discrimination or stigmatisation.’ Article 22 of the UNCRPD requires states to “protect a person with disability’s ‘private sphere’ from uninvited intervention.”

PROCEDURE

The Public Trustee is responsible for the professional administration of client affairs whether it is through an estate; trust; Guardianship and Administration Order; Enduring Power of Attorney; court order or some other appointment. The Public Trustee upholds clients’ right to privacy as a fundamental human right and must appropriately handle personal information obtained in the course of these duties.

Compliance with this policy requires employees of the Public Trustee, including the Board, to adhere to the Personal Information Protection Principles (Schedule 1 of the Act), and in circumstances where the Public Trustee is required, to comply with the provisions of the *Privacy Act 1988*.

The Public Trustee Privacy Policy will be made available on the [website](#) in an accessible format, including contact information for making a [complaint](#) or requesting information regarding privacy concerns.

The Public Trustee, as a personal information custodian, must provide details of the management of personal information in accordance with the Act.

Any person may make a request for information under the Act and employees must take reasonable steps to advise the person, in general terms, of:

- (a) the sort of personal information it holds; and
- (b) the purposes for which it holds the information; and
- (c) how it collects, holds, uses and discloses that information.

Refer to the Right to Information Policy and Procedure.

² [Personal Information Protection Act 20024](#), Schedule 1, 10. (1)(c).

Client information security

The Public Trustee's Information Governance Framework includes accountability for data controls, security and considerations for potential breaches of sensitive information. We have implemented technology and security policies, rules and measures to protect the personal information that we have under our control from unauthorised access, improper use, unsanctioned alteration, unlawful or accidental destruction and accidental loss. Refer to the Department of Premier and Cabinet – [Cyber Security Policy and Standards](#) for the prevention of unauthorised access to personal information.

We will destroy personal information where it is no longer required, in accordance with the Office of the State Archives disposal schedule for the Public Trust (except where required to be transferred or retained in compliance with the *Archives Act 1983*).³

Employees are to undertake ongoing training and awareness programs in privacy, client confidentiality, and cyber security to ensure they follow best practices in client records management and security.

For more information on the types of information we collect from clients under Financial Administration Order, refer to 'Your Guide to Financial Administration' client information handbook (Accessible format).

Disclosure of personal information to third parties

We may disclose your personal information to third parties, including:

- suppliers and other third parties that we have commercial relationships with, including those who may collect personal information on our behalf. For example, providers that host our website servers and ICT infrastructure, manage our learning management systems, electronic document management, and human resources information systems, and service providers engaged to provide services from time to time, such as research, surveys, transcription and programs, directly related to our functions
- any organisations for any authorised purpose that directly relates to one of our functions
- where required or permitted to do so by law, including in response to a request under the *Right to Information Act 2009*, where no exemption applies to the information.

Personal information regarding clients experiencing family or domestic violence will be treated as sensitive information that is not to be shared with third parties, unless written consent is obtained. Sensitive information will not be stored on the client's file unless it is required for the purposes of accurate record keeping regarding their financial situation.

³ Office of the State Archives, Retention and Disposal Schedule for Functional records of the Public Trust Office, [website](#).

For more information, refer to the Public Trustee's Client Service Standards and Child and Youth Safety and Wellbeing Policy and Procedure.

Complaints handling

We collect personal information about complainants, respondents and third parties in the course of receiving and handling complaints made regarding the Public Trustees services by employees, including contractors. Personal information about an individual may be collected by the Public Trustee from a complainant, respondent or third party and may be received in various ways, including through our online complaint form, responses to complaints, by email, by letter or by phone. This may include sensitive information.

When handling complaints regarding privacy concerns, we will protect personally identifiable information and maintain the confidentiality and safety of staff and complainants, including identity protection, when needed and adhere to the *Personal Information Protection Act 2004*. Refer to the Complaints and Feedback Management Policy and the [website](#).

BREACH OF THIS POLICY

Failure to comply with this Policy may expose the Public Trustee to performance and legal risk. An employee who does not comply with this Policy may breach the State Service Code of Conduct and is subject to the Employment Directive no.5.

A member of the Public Trustee that does not comply with the Personal Information Protection Principles will be in contravention of section 17 of the Act and may be the subject to investigation.

A breach of an [Australian Privacy Principle](#) is an 'interference with the privacy of an individual' and can lead to regulatory action and penalties.⁴ Refer to Annex A – Privacy Fact Sheet.

REFERENCES

Personal Information Protection Act 2004 – [Schedule 1 Personal Information Protection Principles](#)

Public Trustee Act 1930 – [Section 8 Confidentiality](#)

State Service Act 2000

Privacy Act 1988 (Commonwealth)

Tasmanian Government – [Personal Information Protection](#)

[Australian Privacy Principles](#) – Quick Reference, Office of the Australian Information Commissioner

Department of Premier and Cabinet – [Cyber Security Policy and Standards](#).

⁴ Office of the Australian Information Commissioner, Australian Government.

ANNEX A – PRIVACY FACT SHEET

What are the Australian Privacy Principles (APPs)?

- Open and transparent management of personal information.
- Anonymity and pseudonymity.
- Collection of solicited personal information.
- Dealing with unsolicited personal information.
- Notification of the collection of personal information.
- Use or disclosure of personal information.
- Direct marketing.
- Cross-border disclosure of personal information.
- Adoption, use or disclosure of government related identifiers.
- Quality of personal information.
- Security of personal information.
- Access to personal information.
- Correction of personal information.

What steps can I take to protect my clients' personal information?

- Only collect information you need.
- Don't collect personal information about an individual just because you think that information may come in handy later.
- Tell people how you are going to handle the personal information you collect about them.
- Think about using personal information for a particular purpose.
- Think before disclosing personal information.
- If people ask, give them access to the personal information you hold about them.
- Keep personal information secure.
- Don't keep information you no longer need or that you no longer need to retain.
- Keep personal information accurate and up to date.
- Consider making someone in your organisation or agency responsible for privacy.

For more information, refer to the [Australian Privacy Principles](#).