

PRIVACY POLICY

THE PRESBYTERIAN CHURCH (NEW SOUTH WALES) PROPERTY TRUST AS TRUSTEES FOR THE PRESBYTERIAN CHURCH OF AUSTRALIA IN THE STATE OF NEW SOUTH WALES

1. Introduction:

The *Privacy Amendment (Private Sector) Act 2000* (Cth), which amends the *Privacy Act 1988* (Cth), “the Act”, regulates the way private sector organisations in Australia handle personal information. Its provisions came into effect on 21 December 2001. The Presbyterian Church of Australia in the State of New South Wales (“the Church”) Church is an unincorporated association and an organisation for the purposes of the Act, and therefore bound by the National Privacy Principles. *The Presbyterian Church (New South Wales) Property Trust Act 1936* provides for the regulation, management and control of the temporal affairs of the Church. The Presbyterian Church (New South Wales) Property Trust, “the Property Trust”, is constituted under this Act as a body corporate and is empowered in respect of “all such other acts and things as bodies corporate may by law do or suffer”.

2. Scope:

Specific activities of the Church and the Property Trust, such as schools and aged care facilities, have affected formal Privacy Policies in compliance with government registration or accreditation requirements. The Property Trust is the organisation which bears the privacy policy requirements on behalf of the Church where there is no other formal Privacy Policy in place. If there is any inconsistency between this or any other written Privacy Policy within the Church and the National Privacy Principles, the National Privacy Principles will prevail.

3. Compliance:

The Church and the Property Trust, as trustees for the Church, will use its best endeavours to ensure compliance with the National Privacy Principles set out in Schedule 3 of the Act in relation to the collection and handling of any personal information it receives.

Further information about the way the Church and the Property Trust manages the personal information it holds is available upon request from the Privacy Officer.

4. Collection and use of personal information:

The Church, its committees, organisations and the Property Trust collect personal information as defined in the Act in their own right, and also collect and hold the Archival Records of the Church deposited by various bodies of the Church. These Archival Records may also contain personal information.

Subject to the following paragraphs, the Church and the Property Trust will only use personal information for the primary purpose for which it was collected. It will strive in all cases to ensure that individuals providing information are provided with an explanation of those purposes in writing. These purposes relate to the spiritual, pastoral, social, educational, administrative, legal, and historical functions of the Church. These functions include maintaining personal information for the purposes of administration and communication throughout the Church, analysing the role of the Church in society, recording the family histories of its members, adherents, and persons in regular contact with the Church, and maintaining vital records in the public interest, including baptism rolls, wedding registers and other lists. This information may be disclosed to scholars and others studying aspects of the life and work of the Church and of people actively associated with the Church.

The Church and the Property Trust will only use personal information about an individual for a secondary purpose if the subject individual has consented to its use for that purpose, or if its use is otherwise permitted by the National Privacy Principles. Under no circumstances will information be used for commercial purposes.

5. Collection and use of sensitive information:

Sensitive information is information or opinion about an individual's racial or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations, philosophical beliefs, membership of professional or trade associations, membership of a trade union, sexual preferences or practices, criminal record or health information about an individual.

Sensitive information may be collected in respect of the members of the Church organisation or those individuals who have regular contact with it in connection with its activities. The Church and the Property

Trust will make the utmost endeavour at or before the time of collecting the information to undertake to the individual whom the information concerns that such information will not be disclosed without the individual's consent. The information may form part of personal pastoral care procedures involving the courts or committees of the Church as required under The Code and regulations of the Church.

6. Security and disclosure of information:

The Church will take all reasonable steps to keep personal, sensitive, and all other confidential or restricted information secure, and to prevent its unlawful use and/or inappropriate disclosure.

The Church and the Property Trust will, as far as practicable, develop and implement practices and procedures in respect of all archival records held under its direct and indirect control, including the following:-

- (a) Require all researchers seeking access to deposited material (other than "vital records" contained in registers of baptism and marriage) to acknowledge in writing, prior to access being granted, that:-
 - (i) All Archival Records made available to them are subject to the National Privacy Principles where applicable; and
 - (ii) The researcher is responsible for obtaining the express consent for disclosure of information where required in terms of the National Privacy Principles; and
 - (iii) The researcher is responsible for any breach of the Act and/or the National Privacy Principles caused by the use of information made available to him/her, and for the consequences of such breach; and
 - (iv) The researcher will indemnify the Church and the Property Trust, the Assembly, and/or its agencies in respect of liability for such breach.
- (b) Require all applicants/researchers seeking personal and sensitive information from registers of baptism and/or marriage prior to the provision of such information to:-
 - (i) Produce evidence that he/she is a subject of the record concerned, or holds the consent of the subject(s) of the record to obtain the information; or
 - (ii) Establish that the subject(s) of the record are deceased, or can reasonably be presumed to be deceased.

Where the subject of a record seeks access to his or her personal information or sensitive information, and where such information has not been restricted by the National Privacy Principles, or otherwise restricted by law, it is the policy of both the Church and the Property Trust to grant access, subject to the production of identification deemed to be sufficient.

7. Retention of records containing personal information or sensitive information:

The Church will ensure to the best of its ability the preservation of all registers, minute books, correspondence, photographs and other images, and all other records containing personal and sensitive information. To this end, pastoral charges, presbyteries, committees, councils and other agencies of the Church will ensure the prompt transfer of non-current records to the Ferguson Memorial Library and Archives of the Presbyterian Church of Australia in NSW.

8. Complaints procedure, designation of Privacy Officer and contact information:

Enquiries concerning this Privacy Policy, and any complaints concerning failure of the Church to comply with this Policy, the Act or the National Privacy Principles, should be addressed in the first instance to the Church's designated Privacy Officer, Mrs S Pacey, who can be contacted on (02) 9690 9333, PO Box 2196, Strawberry Hills, NSW 2012 or general@pcnsw.org.au.

If any complaint is not readily resolved to the satisfaction of the complainant the matter will be referred to the General Manager, Mr W Richards, who can be contacted on (02) 9690 9333, PO Box 2196, Strawberry Hills, NSW 2012 or general@pcnsw.org.au. The Complaint Resolution process will include but not be limited to;

- (a) the matter being handled in a proficient and confidential manner at executive level, and/or
- (b) referred to the Courts of the Church under the provisions of The Code of the Church, and/or
- (c) independent arbitration initiated depending on the most suitable action necessary in an attempt to best resolve the matter.

NOTE: THIS IS A POLICY AND DOES NOT CONSTITUTE A CONTRACT WITH ANY THIRD PARTY

PRIVACY LAWS

GUIDELINES

for Congregations and Committees.

Privacy Policy:

The Privacy Policy of the Property Trust as trustees for the Church is attached.

Scope:

Any body or organisation within the Church wishing to create or embellish a particular privacy policy for its own operations to reflect specific activities will need to reflect on this policy as a guide to ensure alignment of approach. Any such policy so created should be forwarded to the General Office for perusal by the Law Agent. Other than certain Social Services, Educational or Aged Care activities of the Church it is not recommended that a separate policy from that contained in the attached document is necessary for Congregations.

Application:

Sessions, Committees of Management, Presbyteries and members of other Church Committees should familiarise themselves with this Policy and minute their adoption of it.

General Rule:

Personal information must only be used or disclosed for the primary purpose it was collected. People should be told why personal information is being collected and how it will be used, and not used. Sensitive information should be held securely and not made available inappropriately. It should be able to be demonstrated that procedures adopted along these lines constitute a standard local course of action.

Common Circumstances

1. Lists and records identifying individuals (including congregation members, adherents, attendees of Church activities, committee members and elders, baptismal and wedding registers)
2. Directories or newsletters identifying individuals and their contact or other details
3. Sensitive information collected during pastoral duties
4. Oral information provided at a public meetings (e.g. Church Service) identifying an individual.
5. In respect of these common circumstances if a thoughtful and sensitive approach is applied it will assist in compliance with the legislation, for example;

Lists and records (1 above)

On every occasion when an individual's details are documented in official Church records they ought to be provided with a standard notice paper which reads;

“Personal information collected is used only for purposes relating to the spiritual, pastoral, social, educational, administrative, legal and historical functions of the Church

subject to the Church's Privacy Policy in accordance with the Privacy Amendment (Private Sector) Act 2000. Your acceptance of this written advice will be regarded as your consent to collect and so use the information as described. If you do not consent please advise immediately. A copy of the Church's Privacy Policy is available on request. Personal information will not be used for any other purpose without first obtaining your consent.”

Directories and newsletters (2 above)

The following statement should be printed in every edition of any Church directory, newsletter or notice sheet distributed which identifies individuals;

“This Church seeks to comply with the Privacy Amendment (Private Sector) Act 2000 at all times. A copy of the Church's Privacy Policy is available on request. If you do not wish to consent to being identified in this or any other Church publication please advise an elder accordingly.”

Confidential Pastoral duties (3 above)

If the Minister, or appropriate court of the Church intends to record personal and sensitive information arising from deputations or counselling sessions the individual ought to be provided with a standard notice paper which reads;

“Any personal and sensitive information collected will be kept confidential and used only for purposes relating to the spiritual, pastoral, social, educational, administrative, legal and historical functions of the Church subject to the Church's Privacy Policy in accordance with the Privacy Amendment (Private Sector) Act 2000. Your acceptance of this written advice will be regarded as your consent to collect and so use the information as described. If you do not consent please advise immediately. A copy of the Church's Privacy Policy is available on request. Personal information will not be used for any other purpose without first obtaining your consent.”

Personal announcements (4 above)

Information about someone's health is subject to the Privacy Act and consent should be gained before providing that information to others. Information can be collected from a third party where it is not “reasonable or practicable” to obtain it directly from the individual (e.g. overseas or in a coma).

Concerns or complaints:

Enquiries can be directed to the General Manager, Mr Wayne Richards, on (02) 9690 9333.

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