



Australian Government

Australian Financial Security Authority

PRIVACY POLICY

This Privacy Policy sets out how the Australian Financial Security Authority manages personal information.

A summary of this Policy can be found [on our website](#).

The Policy is divided into 3 sections. Part 1 outlines how we deal with personal information across the agency, including in relation to our legislative responsibilities and corporate service functions. Part 2 describes how we collect information via this website. Part 3 contains information about how you can access, or ask us to correct, personal information we hold about you, along with some important privacy definitions, and how to contact us for further information or to raise a privacy concern.

PART 1

WHAT WE DO

We administer Australia's personal insolvency system pursuant to the *Bankruptcy Act 1966* and related legislation. We also administer the Personal Property Securities Register (**PPSR**) where security interests in personal property can be registered and searched. In addition, we have responsibility for the control and realisation of property under a number of Commonwealth acts, including the *Proceeds of Crime Act 2002*, the *Proceeds of Crime Act 1987*, the *Customs Act 1901* and the *Crimes Act 1914*, and under court orders relating to certain child support matters.

THE KINDS OF PERSONAL INFORMATION THAT WE COLLECT AND HOLD

Agency Specific

Our functions under the Bankruptcy Act require us to collect and hold a range of information, some of which is personal information. If you are a bankrupt or a debtor, we will hold a variety of information including your contact details, date of birth, qualifications and employment, and financial details. If you are a creditor in a personal insolvency administration, we will commonly hold your contact details and information about the amount of money you are owed.

If you are, or have been, a personal insolvency practitioner, or have applied for registration as a practitioner, we will hold information about your application and/or your registration and information about your practice. We will also hold information concerning complaints that may have been made to AFSA about your conduct as an insolvency practitioner.

If you have made a complaint to AFSA about a bankrupt, debtor, creditor or personal insolvency practitioner, we will hold personal information that was contained in the complaint, or which it is necessary to collect in order to deal with the complaint.

If you are investigated in relation to, or prosecuted for, an offence against the Bankruptcy Act or related legislation, we may hold personal information relevant to that investigation or prosecution. This information may include criminal records.

Under the *Personal Property Securities Act 2009*, we may hold personal information if a security interest is registered against your property. The information is usually limited to your name and date of birth, details of the subject collateral and the contact details of the secured party.

Our responsibilities regarding the control and realisation of property under other Commonwealth acts and court orders requires us to collect and hold a range of information about certain people including contact and financial details.

Corporate responsibilities

We will also collect information, such as contact, qualifications and employment history details, if you apply for a job with us, are employed or contracted by us for employment service, human resource management and other corporate service functions.

Other collections

We may collect information such as your email address, if you ask to be on an email or mailing list so that we can send you publications or updates about our activities, or if you agree to participate in surveys or research that we may conduct, or have conducted on our behalf. If you telephone, email or send a letter to our contact centre (or directly to a staff member) we may collect or hold information such as your contact details. We also collect information that may be used to establish your identity in some situations.

DEALING WITH US ANONYMOUSLY

You can choose to deal with us anonymously or by using a pseudonym. For example, if you call our National Service Centre with a general enquiry you will be able to choose not to provide a name or to provide us with a name that is not your real name. However, this does not apply where it is impractical to do so, or where we are required or authorised by law to deal with you only if you disclose your identity. For example, if you seek information about a personal insolvency administration that is not publicly available information, you will need to identify yourself and provide proof of your identity, so that we can determine whether you have the right to access the information you seek. The amount and type of evidence required to prove your identity will depend on who you are and the nature of the information you are seeking.

WHY AND HOW WE COLLECT AND HOLD PERSONAL INFORMATION

We only collect and hold personal information that is reasonably necessary for, or directly related to, AFSA functions or activities. Generally we will collect personal information directly from you. In some circumstances we may collect personal information from other sources. We may collect personal information from another source if you consent to the collection from another source, or if it is unreasonable or impractical to collect the personal information from you.

We may also collect personal information from another source if authorised to do so by an Australian law, including the *Privacy Act 1988*, the Bankruptcy Act and the Personal Property Securities Act, or a court order. For example, the Personal Property Securities Act permits your lender to provide us with

your name and date of birth to register a security interest on the PPSR. The Bankruptcy Act contains powers for various parties, including the Official Trustee and Official Receivers, to collect information to assist in the exercise of powers by those parties, or to assist in the administration of the Act.

We only collect sensitive information (see *Privacy Definitions* below) if it is reasonably necessary for, or directly related to, AFSA functions or activities and you consent to that collection. However, we may also collect sensitive information if we are permitted to collect the information by an Australian law or court/tribunal order; if we believe the collection is reasonably necessary for, or directly related to, our regulatory and enforcement functions or activities; or if a permitted general situation exists (see *Privacy Definitions* below).

An example of a situation in which AFSA collects sensitive information is the Statement of Affairs that must be lodged by a debtor or bankrupt under the Bankruptcy Act, which requires the provision of details about the debtor's or bankrupt's spouse, as well as disclosure of whether the debtor or bankrupt was born overseas or has passports issued by overseas countries.

We hold personal information in different mediums, including paper and electronic. We take steps to protect personal information we hold from misuse, interference, loss and from unauthorised access, modification or disclosure. These steps include password protection for accessing our IT systems, locked filing cabinets for paper documents, physical access restrictions to our premises and staff training in appropriate procedures regarding the handling of personal information. When no longer required, personal information is destroyed in a secure manner, subject to our obligations under the *Archives Act 1983*.

WHY WE USE AND DISCLOSE PERSONAL INFORMATION

We use and disclose personal information in order to fulfil our functions and responsibilities under the legislation referred to above in *What We Do*.

If we collect personal information for one purpose, generally we will not disclose or use it for another purpose unless you have consented. We may also disclose or use it for another purpose which is related (or directly related if it is sensitive information) to the purpose for which the personal information was collected and you would reasonably expect that we would do so. For example, if you lodge an amendment statement with us under the Personal Property Securities Act, we will generally disclose the personal information you include in that form to the secured party.

We may use details you have provided to us (such as postal or email address) for the purpose of contacting you to invite you to participate in surveys or research that we may conduct, or have conducted on our behalf. You will not be obliged to participate in such surveys or research, and if you choose not to participate, we would respect your decision and not contact you again.

We may also disclose or use information for another purpose if a permitted general situation exists (see *Privacy Definitions* below); if it is required or authorised by law or a court or tribunal order; or if we reasonably consider that the use or disclosure is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body. The terms "enforcement body" and "enforcement-related activity" are defined in the Privacy Act.

Public Registers

We are responsible for three publically accessible registers: the National Personal Insolvency Index (NPPI), the Register of Trustees and the Personal Property Securities Register (PPSR).

The NPPI is established under the *Bankruptcy Regulations 1996*, and contains a range of information relating to personal insolvency administrations. The Bankruptcy Regulations set out in more detail the

information that is contained on the NPII. Public access to the NPII is by way of direct searching on our website – this direct search [attracts a fee](#). For more information about the data that is publically available in accordance with the Bankruptcy Act, see Inspection of Public Documents.

The Register of Trustees is a publicly searchable register of all bankruptcy trustees who are registered under the *Bankruptcy Act 1966*. It contains contact details for registered trustees as well as information relating to conditions on their registration and particulars of disciplinary action they may have been subject to. The register can be accessed on [AFSA's website](#) and there is no fee to search it.

The PPSR is an online register of security interests in personal property. For example, when you borrow money against your car, the lender could register their interest on the PPSR. It is possible to search the PPSR by using the details of a “grantor” (commonly the borrower); including an individual’s name and date of birth. However, a person must have an “authorised purpose” to search by reference to this personal information. Other measures taken to protect your privacy include prohibition over including your name in a registration over consumer “serial numbered property”. For example, a PPSR registration over your car which is not used to carry on a business will not include your name or date of birth.

DISCLOSURE TO OVERSEAS RECIPIENTS

Some personal information held by AFSA may be disclosed to overseas recipients. For example, the PPSR is an online register and it can be accessed via the internet both inside and outside of Australia. In accordance with the requirements of the Personal Property Securities Act a search of the PPSR may reveal some personal information. However, as outlined above, there are provisions in the Act to protect your privacy. Similarly, there is no restriction on who can access information on the NPII, and persons in any overseas country may search it by paying the requisite fee.

PART 2

INFORMATION COLLECTED VIA THIS WEBSITE

When you visit the AFSA website, our server logs the following information which is provided by your browser:

- the type of browser and operating system you are using;
- your top level domain name (for example .com, .gov, .au, .uk etc);
- the address of the referring site (for example, the previous site that you visited); and
- your server's IP address;
- the date and time of your visit; and
- the address of the pages accessed and the documents downloaded.

This information is used only for statistical analysis or systems administration purposes. We will not attempt to identify your activities except where we are required to do so by law and/or in response to a court order, such as a warrant or subpoena.

Cookies

A cookie is an electronic token that is passed to your browser and your browser passes it back to the server whenever a page is sent to you. Our server generates one cookie which is used to keep track of the pages you have accessed while using our server. The cookie allows you to page back and forwards

through the web site and return to pages you have already visited. The cookie exists only for the time you are accessing our server. Cookies are not used for any other purpose.

PART 3

HOW YOU CAN ACCESS, AND SEEK TO CORRECT, PERSONAL INFORMATION WE HOLD ABOUT YOU

If you would like access to personal information we hold about you, or to request that we correct that personal information, please contact us via our Contact details (see below). In response to a request, we will provide access to, or amend or annotate, the information unless we consider there is a sound reason under the Privacy Act, *Freedom of Information Act 1982*, Bankruptcy Act, Personal Property Securities Act or other relevant law to withhold the information or refrain from amending it.

If we refuse access to personal information or to amend or annotate the personal information we hold about you, you may be entitled to seek a review of the decision under the Freedom of Information Act or make a complaint to the Australian Information Commissioner (see below).

COMPLAINTS

If you have a query regarding privacy or wish to lodge a complaint regarding a breach of the Australian Privacy Principles please contact us via our Contact details (see below). Please mark written correspondence "*Attention: Privacy Officer*". Your issue or complaint will be referred to our Privacy Officer, who will provide you with a considered response.

If you are not satisfied with our response, you may contact the Office of the Australian Information Commissioner (OAIC) by:

Telephone 1300 363 992

Email enquiries@oaic.gov.au

Post The Office of the Australian Information Commissioner
GPO Box 5218
Sydney NSW 2001

You may make a complaint to the OAIC without contacting us, but it is likely the OAIC will suggest you contact us in the first instance.

AVAILABILITY OF AND CHANGES TO THIS PRIVACY POLICY

Our Privacy Policy is available from the Privacy page of the AFSA website. Upon request, we will send you a copy of our privacy policy at no cost.

We may from time to time vary our Privacy Policy. If any substantial changes are made, we will publish an announcement on the AFSA website homepage.

PRIVACY DEFINITIONS

Personal information is generally any information or opinion about an identified individual (or an individual who is reasonably identifiable). An individual in this sense means a natural person and referred to as "you" in our Privacy Policy.

Sensitive information is a subset of personal information, which includes information or opinions regarding your racial or ethnic origin, your religious beliefs or affiliations, political opinions or affiliations, membership of a trade union or professional or trade association, your sexual orientation or practices, or your criminal record.

Permitted general situations include situations in which collection, use or disclosure of personal information may occur because:

- it is unreasonable or impractical to obtain your consent and we believe it is necessary to lessen or prevent a serious threat to life, health or safety of an individual;
- we have reason to suspect that unlawful activity or misconduct of a serious nature relating to our functions has occurred or may be occurring and reasonably believe it is necessary in order to take appropriate action;
- we reasonably believe it is necessary to assist in locating a person who has been reported as missing;
- it is reasonably necessary to establish or defend a legal or equitable claim; or
- it is reasonably necessary for the purposes of a confidential alternative dispute resolution process.

CONTACT DETAILS

If you have any privacy questions or would like to request a copy of this Privacy Policy, please contact us by:

Internet: [Contact us form](#)

Email: privacy@afsa.gov.au

Phone: 1300 364 785 or 1300 007 777

Post: AFSA National Service Centre
GPO Box 1550
Adelaide SA 5001