

Privacy notice for Court of Protection forms

Purpose

This privacy notice sets out the standards that you can expect from the Ministry of Justice (MoJ) and Her Majesty's Courts and Tribunals Service (HMCTS) when we process personal information ('personal data') about you in the context of Court of Protection proceedings; how you can get access to a copy of your personal data; and what you can do if you think the standards are not being met.

HMCTS is an Executive Agency of the MoJ. MoJ is the data controller for the personal information held, although it may act jointly with HMCTS. HMCTS also collects and processes personal data for the exercise of its own and associated public functions and legal obligations and is the data controller for that information.

This privacy notice does not apply to the processing of personal data which is collected and controlled by the Court of Protection (and its judges) whilst acting in a judicial capacity. The judiciary are independent from MoJ and HMCTS and data protection law applies differently to them as a result. For more information, see www.judiciary.uk/about-the-judiciary/judiciary-and-data-protection-privacy-notice/

About personal data

Personal data is information that relates to a living individual who can be identified, directly or indirectly, from the data. It does not include information relating to dead people, groups or communities of people, organisations or businesses. It can be your name, address or telephone number. It can also include information about your gender, your financial circumstances, your cultural background, your relatives, or your social status.

We know how important it is to protect the privacy of all individuals involved in court proceedings and to comply with data protection laws. We will safeguard your personal data and will only disclose it where it is lawful to do so, or with your consent.

Types of personal data we process

We only process personal data that is relevant for meeting our legal obligations and for the administration of justice. The types of data collected in the court forms may include: your name, address, contact details, your economic circumstances, ethnicity, religious beliefs and the details of any other persons, including children, to whom the proceedings relate, or those who may have an interest in the proceedings.

The personal data will usually be obtained directly from you or from another person who has included your data in a court form which they have completed. Your personal data may also be obtained from other sources throughout the course of the proceedings, for example from professional organisations such as a Local Authority, The Official Solicitor, the Office of the Public Guardian or another party to the proceedings.

Purpose of processing and the legal basis for the processing

We necessarily process personal data for the purposes of the administration of justice and supporting the independent judiciary in upholding the rule of law and in delivering justice impartially, speedily and efficiently. Processing is also necessary for the establishment, exercise or defence of legal claims.

Personal data required for this purpose is collected and held in court forms. It is also uploaded onto a court database supporting the administration of justice in court proceedings, which is used by court staff for case management and to collect quality information about the progression of a case.

The court forms are available here: <https://www.gov.uk/government/collections/court-of-protection-forms>

These forms are required by the court under the Court of Protection Rules 2017 (“The Rules”) pursuant to the Mental Capacity Act 2005 for use in court proceedings and to enable effective case management in the Court of Protection. The forms are generally used to initiate proceedings or to determine action within existing proceedings and the information provided enables the court to deliver justice and make important decisions.

As explained above, data protection laws apply differently to the court and the judiciary when personal information is being processed when they act in a judicial capacity, such as hearing claims and making judicial decisions.

We also process personal data obtained in Court of Protection cases for statistical purposes. The personal data is anonymised and is used to produce quarterly statistics on the activity of courts in England and Wales. Sometimes HMCTS uses contact information to ask court users if they would like to complete a customer service survey to measure the satisfaction of court users and inform areas for improvement.

When we ask you for personal data we:

- promise to inform you why we need your personal data;
- will ask only for the personal data we need and not collect information that is irrelevant or excessive;
- will protect it and make sure no unauthorised person has access to it;
- may share it with other organisations but only where necessary and permitted by the law (see below);
- will make sure we don’t keep it longer than is necessary.

You can:

- request access to your personal data or ask for it to be corrected;
- object to our processing of your personal data or make an application to the Court under Rule 5.7 of the Court of Protection Rules 2017 to ask for the processing to be restricted. You should also check the provisions in the judiciary privacy notice. www.judiciary.uk/about-the-judiciary/judiciary-and-data-protection-privacy-notice
- lodge a complaint with the Information Commissioner (see below).

Who the information may be shared with

The information you provide us will typically be shared with the other parties involved in the case, including their legal representatives (and usually you are required by the Rules to give them that information yourself, often by sending them a copy of the form: see the specific forms and Rules for more details).

The information you give us will not usually be shared with anyone who is not a party to the case unless this is specifically ordered by the court or permitted by the Rules. There are strict rules about when information in Court of Protection cases may be disclosed outside the proceedings. This type of processing of personal data by a court is not covered by this privacy notice as it is generally carried out by the independent judiciary.

Where we are required to share personal data with other organisations, such as the Office of the Public Guardian (OPG) we will comply with all aspects of the rules, including data protection laws. The categories of organisations with whom we may be required to share your personal data obtained in court forms may include agencies contracted by HMCTS (e.g. interpreters, intermediaries, transcription or translation agencies), other Government departments or courts and public authorities within or outside the EU.

Details of transfers to third countries

It may sometimes be necessary to transfer personal data overseas for the establishment, exercise or defence of legal claims. The reasons for the transfer and the recipient third country will always depend on the circumstances of the case but any such transfers will be made in full compliance with all aspects of the law ('third country' means a country outside the EU).

To find out more information, you can contact us by emailing: privacy@justice.gov.uk

Retention period for information collected

Different retention periods apply based on the type of proceedings you are involved in. To find out the retention periods and other information which may be useful to you please see: <https://www.gov.uk/government/publications/record-retention-and-disposition-schedules>

Access to personal information

You can find out if we hold any personal data about you by making a 'subject access request'. You can make a subject access request by emailing: Data.access@justice.gov.uk

You can get more details on:

- Agreements we have with other organisations for sharing personal data;
- Circumstances where we can pass on personal data without telling you, for example, to help with the prevention or detection of crime or to produce anonymised statistics;
- Our instructions to staff on how to collect, use or delete your personal data;
- How we check that the personal data we hold is accurate and up-to-date;
- How to make a complaint.

For more information about the above issues or for any other queries, please contact our Data Protection Officer by email: privacy@justice.gov.uk

Complaints

When we ask you for information, we will keep to the law. If you consider that your information has been handled incorrectly by MoJ or HMCTS, you can contact the Information Commissioner for independent advice about data protection. You can contact the Information Commissioner here:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Phone: 0303 123 1113
www.ico.org.uk