

Record keeping for charities

Legal information for charities

This fact sheet covers:

- ▶ the record-keeping requirements of charities registered by the Australian Charities and Not-for-profits Commission (ACNC) under the *Australian Charities and Not-for-profits Commission Act 2012* (ACNC Act)
- ▶ record-keeping provisions of certain companies under the *Corporations Act 2001* (Cth) (Corporations Act), and
- ▶ good record-keeping practices.

CAUTION

This fact sheet does not summarise record-keeping requirements under all other legislation. For example, there are separate record-keeping requirements imposed by state and territory based regulators and there is legislation which regulates the keeping of health records and the keeping of documents which may be relevant to potential litigation. Your charity should seek legal advice if it is unsure what other legislation may apply.



1. Record keeping for charities registered under the ACNC Act

Charities registered with the ACNC must comply with the record-keeping requirements under Division 55 of the ACNC Act. They are in addition to any other record-keeping requirements your charity may have under other laws. For companies registered as charities, the ACNC requirements replace certain record-keeping requirements that apply to non-charitable companies under the Corporations Act. For incorporated associations registered as charities, the ACNC requirements apply in addition to requirements of state-based regulators such as Consumer Affairs Victoria.

You can check if your charity is registered with the ACNC by searching the [ACNC Register](#). These record-keeping obligations commenced on 3 December 2012. For charities established after that date, these obligations apply from the date of registration as a charity.

1.1 What types of records need to be kept?

Registered charities must keep records including:

- financial records [\[s55-5\(1\)\]](#) (discussed further in section 1.2 below), and
- operational records [\[s55-5\(2\)\]](#) (discussed further in section 1.3 below).

These records must be sufficient to enable the ACNC (or others) to assess your charity's:

- entitlement to charity registration [[s55-10\(a\)](#)]
- charitable purpose and registration category or sub-type [[s55-10\(a\)](#)]
- compliance with the ACNC Act and ACNC Regulation [[s55-10\(b\)](#)]. This is particularly broad given the governance standards under the ACNC Regulation, and
- compliance with taxation laws, which is assessed by the Australian Taxation Office (ATO) [[s55-10\(c\)](#)].

There is no prescribed format or method for how records should be kept. Both physical and electronic records can be kept. The records must be in English or easily convertible into English.

The records must be kept for at least 7 years after the transactions, operations or acts covered by the records are completed. Other laws may require records to be retained for a longer period (e.g. health records, documents relevant to potential litigation).

Failing to keep required records may result in your charity committing an offence with a penalty of \$3,600 (as of 1 May 2017).

1.2 Financial records

Financial records must be kept to:

- correctly record and explain your charity's financial transactions, position and performance [[s55-5\(1\)\(a\)](#)], and
- allow financial statements to be prepared and audited. See the financial reporting fact sheet for information about whether your charity has to get its financial statements audited [[s55-5\(1\)\(b\)](#)].

EXAMPLE: WHAT ARE FINANCIAL RECORDS?

The ACNC Act does not define what constitutes a financial record. The ACNC website suggests that financial records may include receipts, invoices, banking records, cheques, vouchers, details of any contracts, details of any grant payments, salary records (of employees), accounting records, working papers to produce financial reports, stock records, lists of assets, tax documents including information about 'pay as you go' withholding, superannuation obligations and fringe benefits provided and correspondence about financial matters including communications from the Australian Taxation Office (ATO).



1.3 Operational records

The ACNC Act requires that written records must be kept to correctly record your charity's operations [[s55-5\(2\)](#)].

EXAMPLE: WHAT ARE OPERATIONAL RECORDS?

The ACNC Act does not define what constitutes an operational record. The ACNC website suggests that operational records are documents, other than financial records, about a charity's operations. These may include meeting minutes, reports, and written details of a charity's activities, programs or services, contractual agreements, strategic plans, policies and procedures, project proposals, member communications, media releases, charity promotional material and project documentation.



Although, companies and incorporated associations that are not registered as charities are not explicitly required to maintain operational records (other than certain meeting minutes), such organisations are advised to keep operational records to ensure that directors and office holders fulfil their duties.

2. Record keeping under the Corporations Act

A company registered under the Corporations Act is required to comply with record-keeping requirements under the Corporations Act if it:

- is not yet a registered charity, or
- ceases to be a registered charity.

Broadly, the Corporations Act requires that an organisation:

- correctly record and explain transactions, its financial position and performance, and
- keep records that would enable true and fair financial statements to be prepared and audited [[ss111K](#), [286](#)].

When a company registered under the Corporations Act is also a registered charity, the company is exempted from the requirement to maintain financial records under the Corporations Act. For such companies, the record-keeping requirements of the Corporations Act no longer apply and the record-keeping provisions of the ACNC Act apply instead.

Organisations that are formed under a State or Territory regime (such as incorporated associations) are not subject to record-keeping provisions under the Corporations Act and instead must meet record-keeping requirements under the relevant State or Territory legislation. If these organisations are also registered charities, they must also comply with ACNC requirements.

3. Who can inspect these records?

- Your **directors** and **members** may have rights to access or inspect records under:
 - your charity's constitution, and/or
 - the corporations or association legislation under which your organisation is established.
- The **ATO** can inspect records to determine your organisation's compliance with taxation laws.
- The **ACNC** can inspect records to determine your organisation's compliance with charity laws.
- The **Australian Securities & Investments Commission** can inspect financial records [[ss28](#) and [29](#) of the *Australian Securities and Investments Commission Act 2001* (Cth)].

TIP: REQUESTS FOR INFORMATION

A request for information from a regulatory body should be in writing and should outline what information is required and how the information should be provided to the regulatory body. The regulatory body may inspect, copy or retain original documents.



4. Good record-keeping practices for charities

4.1 Record-keeping policy

The ACNC encourages organisations to develop and maintain a record-keeping policy which includes information about:

- what records are kept
- who is responsible for managing records
- training on record-keeping practices
- handling sensitive and secure records, and
- electronic records and back-up procedures.

4.2 Hard copy or electronic records?

Most records can be kept either in hard copy or electronically. If you make electronic copies of documents, you will generally not be required to keep the hard copy original *unless* the original document has some value that will be lost in the electronic copy (for example, if the original document has evidentiary value).

If you choose to keep electronic records, you should make sure of the following:

- electronic copies must be true and clear (legible) reproductions of the original
- you should keep a back- up of electronic records
- make sure the documents are readily accessible (easy to find), and
- you must be able to convert the documents to hard copy (for example, by printing the records)

If you choose to keep your records electronically, you must also make sure they are stored securely. If your records contain personal information or health information, you will need to ensure you are storing your records in accordance with the relevant privacy laws.

If you choose to keep records in hard copy, you will also need to ensure that your records are readily accessible and are stored securely in accordance with any applicable privacy laws.

If you are an incorporated association, you should check the requirements under your incorporations laws. For more information on keeping and accessing documents, records and registers in your state or territory, see the Record Keeping page on the Information Hub at www.nfplaw.org.au/recordkeeping.

FURTHER READING

For further information about compliance with privacy laws, see Not-for-profit Law's Privacy page on the Information Hub at www.nfplaw.org.au/privacy.

4.3 Destruction of records

After seven years (and if your charity has no record-keeping obligations to other regulators), your charity can destroy its records for ACNC and ASIC purposes. Before you destroy records, check your charity's record-keeping policy and other legal obligations, for example, privacy requirements to make sure you are doing so appropriately.

RELATED RESOURCES

The ACNC has published helpful guidance on record-keeping practices for registered charities. For further information please see the following pages on the ACNC website:

- [Keep charity records](#)
- [Examples of financial and other records](#), and
- [Record-keeping checklist](#).



Resources

Related Not-for-profit Law Resources

The Not-for-profit Law Information Hub contains many fact sheets on different topics. It can be accessed at www.nfplaw.org.au. The following topics contain relevant further information:

- Documents, Records and Requests For Access – www.nfplaw.org.au/recordkeeping

This page contains resources on record-keeping requirements for incorporated associations in each state and territory.

- Tax – www.nfplaw.org.au/tax

The tax page has information about different tax concessions available to charities and not-for-profits.

- Reporting to Government – www.nfplaw.org.au/reporting

This page outlines different reporting requirements for community organisations.

Legislation

- [Australian Charities and Not-for-profits Commission Act 2012 \(Cth\)](#)
- [Australian Charities and Not-for-profits Commission Regulation 2013 \(Cth\)](#)
- [Corporations Act 2001 \(Cth\)](#)
- [Taxation Administration Act 1953 \(Cth\)](#)

ACNC website

- [ACNC Register](#)

The ACNC Register contains information about the more than 59,000 charities registered with the ACNC.

- [ACNC guide to record keeping](#)

This page has information on record-keeping obligations to the ACNC.

A Not-for-profit Law Information Hub resource. Access more resources at www.nfplaw.org.au. Justice Connect Not-for-profit Law acknowledges the generous support of our funders and supporters. Find out more at www.nfplaw.org.au

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