

Corporate Policy: ACNC Privacy Policy

This Corporate Policy is issued under the authority of the Commissioner and should be read together with the [ACNC Policy Framework](#), which sets out the [scope](#), [context](#) and [definitions](#) common to our policies.

About this Privacy Policy

This policy sets out how the ACNC will comply with the Australian Privacy Principles (APPs) contained in Schedule 1 to the Privacy Act 1988. In particular, this policy demonstrates the ACNC's compliance with APP 1 - Open and transparent management of personal information.

The APPs are contained in Schedule 1 to the Privacy Act 1988 and are legally binding on the ACNC.

The APPs regulate the way in which organisations and government agencies can collect, store, use and disclose personal information and how you can access and correct that information.

Detailed information on the APPs can be found on the Office of the Australian Information Commissioner's (OAIC) website www.oaic.gov.au



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Background

About the ACNC

1. The ACNC is the independent national regulator of charities. The ACNC was established to achieve the following objectives:
 - Maintain, protect and enhance public trust and confidence in the sector through increased accountability and transparency.
 - Support and sustain a robust, vibrant, independent and innovative not-for-profit sector.
 - Promote the reduction of unnecessary regulatory obligations on the sector.
2. To achieve our objectives, the ACNC:
 - Registers organisations as charities.
 - Helps charities to understand and meet their obligations through information, guidance, advice and other support.
 - Improve public understanding of the work of charities and other not-for-profits through making information available that we regularly collect from registered charities in the form of sector research.
 - Maintains a free and searchable public register so that anyone can look up information about registered charities.
 - Is working with state and territory governments (as well as individual federal, state and territory government agencies) to develop a 'report-once, use-often' reporting framework for charities.
 - Investigates complaints about potentially non compliant charities.

For more information about the ACNC's role and its functions see www.acnc.gov.au

What is personal information?

3. Personal information is information or an opinion about an individual:
 - whether or not the information or opinion is true or not; and
 - whether the information or opinion is recorded in a material form or not.
4. The APPs apply only to information about individuals. The APPs do not cover information about charitable entities. Information about charitable entities is protected under the secrecy provisions of the ACNC Act.¹
5. If the ACNC does not collect personal information about you, the Privacy Act will not apply.

¹ For further information on the ACNC secrecy provisions see Operational Procedure: ACNC Protected Information Procedure (OP 2015/01).

Who should read this Privacy Policy

6. You should read this Privacy Policy if you are:
 - An individual who is a responsible entity for a charity (i.e. a director of a company or a trustee of a trust that is a registered charity).
 - A contact person for a charity.
 - An agent for a charity.
 - An individual whose personal information may be given to or held by the ACNC.
 - A contractor, consultant or supplier or vendor of goods or services to the ACNC.
 - A person seeking employment with the ACNC; or
 - A person employed by the ACNC.

The ACNC Register

7. The ACNC Act requires the ACNC to collect and publish information about charities and their responsible entities on the ACNC Register. The ACNC Register allows members of the public to access and view information about registered charities. Subject to limited withholding provisions, the ACNC must publish this information in accordance with section 40-5 of the ACNC Act.²
8. The publication of personal information onto our Register is permitted under the Privacy Act.

² See Appendix 1 for a full list of the information published on the ACNC Register under section 40-5.

The ACNC's personal information handling practices

Collection of personal information

9. The ACNC will always endeavour to collect any required personal information from you directly. However sometimes we may ask for your personal information from your agent (i.e. a lawyer or an accountant) or from a third party. A common example will be where you are a responsible entity for a charity. As we are required to collect personal information including name and position of all responsible entities, another person acting on the authority of the charity may supply your personal information to us.

Common ways we collect and use personal information

At the registration stage

10. When applying to register your charity, we will ask for personal information belonging to the responsible person.
11. We are required to collect personal information belonging to the responsible person under paragraph 40-5(c) of the ACNC Act. This section of the ACNC Act requires us to collect the name and position of the responsible person and to publish this information onto the ACNC Register (publication will only occur if the registration of the charity is approved).
12. We may also use the information provided to us in the registration form to undertake preliminary checks to ensure that your charity is entitled to registration and that all responsible persons are entitled to hold such a position within the charity.
13. If the responsible person wants to contact the ACNC to discuss confidential matters belonging to the charity, we need to have enough information on our record to conduct a Proof of Identity (POI) check. Only the name and position of the responsible person are published onto the ACNC Register. Any additional information we ask for the purpose of conducting a POI check will not be published.³
14. If the responsible person is not the same person who is completing the registration form, we will also ask for personal information belonging to the person who is completing the form on behalf of the charity. We ask for this information so that we can conduct a POI check if this person wants to contact us to discuss the registration application or any other confidential details belonging to the charity.
15. If the online registration form is started but not submitted to the ACNC, the applicant will be prompted to complete the form. If the form remains pending after eight months, it will be deleted from the system as part of the ACNC's commitment to ensuring that personal information we collect is accurate, up to date and complete.

³ For further information on the ACNC proof of identity process see Operational Procedure: Proof of identity procedure (OP 2015/02).

Completing forms (i.e. updates to charity or responsible person details) or reports (such as the Annual Information Statement)

16. Anytime you complete a form on behalf of your charity, we will ask for your personal information. We ask for this information so that we can conduct a POI check if you need to contact us to discuss the form or any other confidential details belonging to your charity.
17. We may also request the details of an alternative contact if you would like us to contact someone else should we have any follow up questions with regard to the particular form or report. Providing this personal information is voluntary. However it enables us to conduct a POI check so that we can discuss the content of the particular form with you.
18. If an online form is started but not submitted to the ACNC, the applicant will be prompted to complete the form. If the form remains pending after eight months, it will be deleted from the system as part of the ACNC's commitment to ensure that personal information we collect is accurate, up to date and complete.

The ACNC Portal

19. The ACNC Portal is a way for charities to log in and update information we hold about them electronically. Updates to responsible persons can be made through the ACNC portal. Updates to the responsible persons via the portal require us to collect the same information as if we were collecting the information via a paper form. This means we must collect the name and position of the responsible person and publish that information onto the ACNC Register in accordance with our obligations under the ACNC Act. We will also collect additional personal information so that we can conduct a POI check should you need to contact us and discuss your information or your charity's information.
20. If you forget your password to the ACNC portal, we may need to ask you a series of security questions in order to verify your identity so that we can send you a new password. These details are used for the password reset only and are not saved or stored for later use.

You can make a correction or update to your charity's information online via the charity portal at: <https://charity.acnc.gov.au>

Charity Passport

21. The Charity Passport is used by the ACNC to reduce reporting duplication. It is an electronic way for government agencies to share and use charity information and is in line with the development of our 'report once, use often' reporting framework.
22. The Charity Passport contains information that you have reported to us (in your registration application, Annual Information Statement, annual financial reports and updates that have been made to your information) that we have

published on the ACNC Register. This means that it is only publicly available information that is shared between Charity Passport Partners.

23. Some of this information includes personal information, such as responsible person details (only those details that have been published on the ACNC Register).
24. All Australian government agencies, both Commonwealth and state and territory, can access the Charity Passport data by becoming an authorised Charity Passport Partner.
25. Use of the Charity Passport is subject to both the Privacy Act 1988 and the secrecy provisions contained in Part 7-1 of the ACNC Act. This means the ACNC will only disclose your information where lawful and Charity Passport Partners can only access and use your information in accordance with those laws.

Advice Services

26. If you telephone us to discuss your charity's details, we will need to conduct a POI check to ensure that you are a person authorised to discuss the confidential matters of the charity. When conducting POI we will ask you a number of questions (generally three) that relate to information we hold about you on our system. We ask you this information so that we can verify your identity.⁴

Information to and from other agencies and departments

27. In line with the ACNC's objective of reducing red tape for charities, where it is practicable, we will collect your personal information from other agencies and government departments to whom you have reported. We do this so that you do not need to report the same information to a number of agencies and departments.
28. We may also disclose information we collect about you to other government agencies where you would ordinarily be required to provide that information to that other agency. Where reasonable, we will inform you of this fact at the time we collect the information.
29. We have agreements with the Commonwealth government agencies and departments listed below regarding the sharing of personal information. These agreements are in the form of a Memorandum of Understanding (MOU) and subject to the Privacy Act. This means information will not be shared where doing so would result in a breach of your privacy.
 - Australian Taxation Office
 - Australian Securities and Investment Commission
 - Office of the Register of Indigenous Corporations
 - Tertiary Education Quality and Standards Agency

⁴ For further information on the ACNC proof of identity process see Operational Procedure: Proof of identity procedure (OP 2015/02).

The MOUs we have in place are published on our website. For a complete list and to access any of our MOUs visit the [ACNCs MOU page](#) on our website

30. All Commonwealth government agencies and departments are subject to the Privacy Act. This means that they can only collect, store, use and disclose your information in accordance with the Privacy Act.
31. We also have agreements with State and Territory government departments and agencies regarding the sharing of personal information. Whilst the State and Territory departments and agencies are not subject to the Commonwealth privacy laws (there are different state and territory privacy laws that apply to those organisations), this does not change the fact that the ACNC are. This means we will only collect your information from these organisations, store, use or disclose your information in accordance with the Privacy Act.

For more information on State and Territory privacy laws go to the OAIC's page on [State and territory privacy law](#)

Research

32. The ACNC established a research network. The network is designed to support researchers and strengthen the ties between researchers and the sector.
33. The ACNC manages a mailing list for network members. Persons who wish to be added to this list provide their details voluntarily. When the ACNC adds a person to the list, their name, workplace, email address and phone number are collected.
34. The ACNC produces research based on the information we collect regularly. Whilst this research is based on information collected from charities, it is de-identified and largely focuses on statistics and trends.
35. The ACNC also works closely with the research community to support research into not-for-profits and charities. This includes collaborating or assisting on research projects; identifying areas of research need; and building and strengthening links between researchers, the charitable sector and Australian government agencies. Usually, the ACNC will only disclose de-identified data or information that is lawfully publically available on the ACNC Register to researchers. In some instance, the ACNC may disclose identifiable or withheld information. We will only do this where there is a contractual arrangement in place that ensures confidential handling of the information in accordance with the ACNC secrecy provisions and the Privacy Act 1988.

Data.gov.au

36. The ACNC discloses information that has been published on the ACNC Register to data.gov.au. This information is then published onto data.gov.au.
37. Data.gov.au provides an easy way to find, access and reuse public datasets from Government. Thus, it is only publically available information that is

disclosed to and published on data.gov.au (information that is ordinarily published on the ACNC Register).

Education sessions

38. The ACNC conducts face to face education and training sessions for charities. The name, workplace and contact details of participants are collected (voluntarily) during these sessions.
39. The ACNC also conducts online education, such as webinars. Name, email address, charity details and role descriptions are collected from participants to the webinar, as well as an indication of the registrant whether they would like to be contacted in relation to future webinars. The ACNC uses this information to send a follow up email at the conclusion of the webinar with links to relevant resources and additional information, and to send information about future webinars where this is agreed to. Follow-up and other emails include easy unsubscribe options.

Employee information

40. Persons who are employed by the ACNC are Australian Taxation Office (ATO) employees who are effectively loaned to the ACNC so that the ACNC can achieve its objects. As such all ACNC employees are covered by ATO employment policies and procedures.
41. This means that when you commence employment with the ATO, the ATO will collect the information it needs from you for human resource purposes. This information is stored in an electronic database called the ATO SAP system. This information is kept confidential and only a select number of ACNC human resource officers have access to the ATO SAP system.
42. This information is used for employment related purposes only.
43. If employees or managers want access to information contained in the database, they must contact the ATO People Helpline.

Use and disclosure of personal information

44. When we collect personal information, we will notify you of the purpose for which we are collecting it. Generally, we will only use or disclose your personal information for the very purpose for which it was collected.
45. We will only use and disclose your information where the use or disclosure is lawful.
46. The most common ways we collect personal information and the reasons we collect it are explained in detail at paragraphs 10-43.

Accidental or unauthorised use or disclosure

47. All ACNC employees are made aware of their obligations to handle personal information in accordance with the Privacy Act.
48. Our practices and procedures are regularly reviewed to ensure ongoing compliance with the Privacy Act.
49. Where an accidental or unauthorised use or disclosure occurs, the ACNC will act quickly to rectify and remedy the situation. The ACNC has a data breach response plan (OP 2015/03) in place to deal with any suspected breaches of Privacy. The data breach response plan ensures the ACNC will act swiftly to contain any potential breach and mitigate any harm that may be caused to an individual.
50. External service providers contracted by the ACNC are bound contractually to comply with the requirements of the Privacy Act.
51. Potential accidental or unauthorised use or disclosure of information, including personal information, is also covered by the following:
 - The ACNC secrecy provisions contained in Division 150 of the ACNC Act. Where an employee discloses personal information that is also protected information unlawfully, they will be subject to penalties including, in the most serious cases, up to two years imprisonment.
 - All ACNC employees are covered by the Public Service Act 1999, the Public Service Regulations 1999 and the Australian Public Service (APS) Values and Code of Conduct. If employees disclose official information without authority they may face disciplinary sanctions including, in the most serious cases, termination of employment.
 - Current and former employees and service providers are generally covered by the Crimes Act 1914 which provides for criminal penalties for unauthorised disclosure of official information.
 - The Criminal Code Act 1995 provides for similar penalties if former employees dishonestly use official information gained during their employment to benefit themselves or others or to cause harm to another person.

Storage and data security

52. We take reasonable steps to protect the personal information we hold from misuse, interference, loss, unauthorised access, modification or disclosure. We do this by ensuring that:
 - Personal information collected by the ACNC is collected and stored in accordance with Australian Government security policy. All paper files are secured in locked cabinets, Australian Government approved security containers or Secure Rooms with restricted access.
 - Information that has been stored electronically can only be accessed by ACNC officers.
 - Our internal network and databases are protected using firewall, intrusion detection and other technologies.
 - The ACNC's premises are under 24 hour surveillance and access is via security pass only, with all access and attempted access logged electronically.

- All ACNC employees and service providers are made aware of their obligations under the Privacy Act during the induction stage of their employment. Ongoing training is provided to ensure that we adhere to our established security practices.

Records management

53. All Commonwealth agencies, including the ACNC, are bound by the Archives Act 1983. This means that all our records management policies, including storage and destruction of information, are in accordance with the Archives Act 1983, Records Authorities and General Disposal Authorities.
54. Other Acts which impact on our records management policies are:
 - The Australian Charities and Not-for-profits Act 2012
 - The Freedom of Information Act 1982
 - The Australian Information Commissioner Act 2010
 - The Privacy Act 1988
 - The Evidence Act 1995
 - The Electronic Transactions Act 1999
 - The Financial Management and Accountability Act 1997
 - The Crimes Act 1914

For further information on ACNC related policies see:

[Freedom of information policy](#)

[Information handling policy](#)

Access to and correction of personal information

Access to your personal information

55. You have a right under Australian Privacy Principle 12 to access the personal information we hold about you.
56. There is no charge for making a request.
57. You can make a request for access to the personal information we hold about you by contacting us at advice@acnc.gov.au, phone 13 22 62 or GPO Box 5108 Melbourne Victoria 3001.
58. You will need to include the following details in your request:
 - That you are making a request for access to the personal information we hold about you under the Privacy Act.
 - Your full name, date of birth and contact details (phone number, address or email address that we will have on our systems). We ask for this information so that we can verify your identity.
 - An address (email or postal address) that you would like the information you have requested forwarded to.

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- A contact phone number so that we can speak with you if we need any further details regarding your request.
 - Any relevant details regarding the information you are requesting.
59. We will respond to your request within 30 days.
60. Note that the ACNC may refuse to give access to personal information or refuse to give the information in the manner requested where we are required or authorised to refuse access under the Freedom of Information Act 1982 or another Act of the Commonwealth or a Norfolk Island enactment that provides for access by persons to documents.
61. If we make a decision to refuse to give access or refuse to give access in the manner you have requested we will send a written notice to the address you have provided to us, outlining our reasons for refusal (except to the extent that having regard to the grounds for the refusal, it would be unreasonable to do so).
62. We will also let you know the mechanisms available to you to complain about the refusal.

You may also request access to information we hold about you under the Freedom of Information Act 1982. For further information on how to make a request for information, visit our website:

http://www.acnc.gov.au/ACNC/About_ACNC/Freedom_of_info/ACNC/Legal/FOI.aspx

Correction of Personal Information

63. You can make a request for us to correct personal information we hold about you where you believe that information is out of date, inaccurate, incomplete, irrelevant or misleading.
64. There is no charge for making the request.
65. You can make a correction to the personal information we hold about you by changing your details via the charity portal at: <https://charity.acnc.gov.au>. You may also contact us at advice@acnc.gov.au, phone 13 22 62 or GPO Box 5108 Melbourne Victoria 3001 for assistance.

Anonymity and use of a pseudonym

66. In some instances, you will have the right to not identify yourself or to use a pseudonym when dealing with the ACNC.
67. However, in some instances it will be impracticable for the ACNC to deal with you without identifying you. Alternatively, we may be required by law to deal with identified individuals.
68. For example, Division 40 of the ACNC Act requires the ACNC to publish responsible person details on the ACNC register. As the law requires us to deal with identified individuals, there is no discretion to grant the right to anonymity or the use of a pseudonym in these instances.
69. However, an example where you may be entitled to remain anonymous or to use a pseudonym is where you would like to make a complaint about a charity or where you would like to provide the ACNC with feedback.

70. The right to anonymity and the use of a pseudonym will be decided on a case by case basis in accordance with Australian Privacy Principle 12.

Data quality

71. The ACNC is committed to monitoring, maintaining and improving the quality of our products and services.
72. In the event that we become aware that data we hold is inaccurate, out of date, misleading or incorrect, we will take proactive steps to correct the information.

Our website

73. The ACNC's website [Privacy Statement](#) contains privacy information specific to the ACNC website.

The ACNC portal

74. The ACNC portal allows you to view and make corrections and updates to information we hold about your charity. You can also make updates to responsible person details. In some instances, this will involve the handling of personal information.
75. The ACNC portal [Privacy Statement](#) contains privacy information specific to the ACNC Portal. Additional information is also provided in the ACNC portal.

Email communication

76. We will use email to correspond with you where you have indicated that this is your preferred mode of communication.
77. There are risks when transmitting information over the internet, including via email. We will consider these risks before we make an informed decision based on all the circumstances to correspond with you via email.
78. You should also be aware of these risks when sending personal information to us via email. If this is a concern to you, then you should use other methods of communication with the ACNC such as post, fax or phone.

Complaints

How to make a complaint

79. If you think the ACNC has breached your privacy rights, you may contact us by:

Phone: 13 ACNC (13 22 62) weekdays 9:00 am to 6:00 pm AEST

Email: advice@acnc.gov.au

Write to:

Advice Services

Australian Charities and Not-for-Profits Commission

GPO Box 5108

Melbourne Victoria 3001.

80. Please mark your feedback "Attention: Privacy Contact Officer" when sending it via any of the above methods.

The ACNC's complaint handling procedure

81. We will respond to your complaint within a reasonable time. This will usually be within 30 days. If for any reason we need additional time to provide a considered response to your complaint, we will contact you to explain the delay and let you know an expected timeframe.

How to make a complaint to the Federal Privacy Commissioner

82. If you are not happy with the way the ACNC handles your privacy complaint, you may contact the Federal Privacy Commissioner.

83. You may also make a complaint directly to the Privacy Commissioner before contacting us. However, the Privacy Commissioner will generally recommend that you try to resolve your complaint by contacting us in the first instance.

84. You can contact the Privacy Commissioner by:

Phone: 1300 363 992

Email: privacy@privacy.gov.au

Write to:

The Privacy Commissioner

The Office of the Australian Information Commissioner

GPO Box 5218

Sydney NSW 2001

Updates to this privacy policy

85. This policy will be reviewed annually to ensure the ACNC's compliance with all relevant privacy laws and policies.

How to Contact Us

86. Most updates or changes to your personal information can be done via the charity portal <https://charity.acnc.gov.au/>

87. If you have any questions about changes to your personal information, this Privacy Policy or you wish to make a complaint about a breach of your privacy you may contact ACNC Advice Services

Email: advice@acnc.gov.au

Phone: 13 ACNC (13 22 62) weekdays 9.00 am to 6.00 pm AEST

Write to:

Advice Services

Australian Charities and Not-for-Profits Commission

GPO Box 5108

Melbourne Victoria 3001.

References

[Privacy Act 1988](#)

[Australian Charities and Not-for-profits Commission Act 2012 \(Cth\)](#)

[Freedom of information policy](#)

[Corporate Policy: Information handling CP 2012/02](#)

[Operational Procedure: Records management - disposal of ACNC Records \(OP 2014/05\)](#)

[Operational Procedure: Normal administrative practice \(NAP\) Disposing of administrative records \(OP 2014/06\)](#)

[Operational Procedure: ACNC Protected Information Procedure OP 2015/01](#)

[Operational Procedure: Proof of identity procedure OP 2015/02](#)

[Operational Procedure: Data breach response plan 2015/03](#)

| Version | Date of effect | Brief summary of change |
|----------------------------|-------------------|--|
| Version 1 - Initial policy | 12 March 2014 | Initial policy endorsed by Commissioner ACNC on 12 March 2014 |
| Version 2 - Revised policy | 22 September 2014 | Revision to clarify deletion of form information after 8 months |
| Version 3 - Revised policy | 4 February 2015 | Updates to reflect and reference new ACNC Operational Procedures |
| Version 4 - Revised policy | 26 April 2016 | Annual review and update 2016 |

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Appendix 1

[ACNC Act](#)

Part 2-2 ACNC Register

Division 40 ACNC Register

Section 40-5 Commissioner to maintain Australian Charities and Not-for-profits Register

Information

(1) The Commissioner is to maintain a register (known as the ACNC Register) in which the Commissioner includes the following information:

88. the following information in respect of each registered entity:
89. the entity's name;
90. the entity's contact details (including its address for service);
91. the entity's ABN;
92. the type of entity as which it is registered or has been registered;
93. each subtype of entity (if any) as which it is registered or has been registered;
94. the date of effect of each such registration;
95. the entity's governing rules;
96. the following information in respect of each former entity:
97. the entity's name;
98. the entity's ABN;
99. the type of entity as which it was registered;
100. each subtype of entity (if any) as which it was registered;
101. the date of effect of each such registration;
102. the entity's governing rules;
103. the following details in respect of each responsible entity of each registered entity:
104. the name of each responsible entity;
105. the position held by the responsible entity in relation to the registered entity
106. information statements given by registered entities under Division 60 (except to the extent (if any) that information in the information statement is classified, in the approved form mentioned in section 60-5, as "not for publication");
107. financial reports, and any audit or review reports, given by registered entities under Division 60;

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108. the details of the following matters (including a summary of why the matter arose, details regarding any response by the relevant registered entity and the resolution (if any) of the matter):
109. each warning issued to a registered entity by the Commissioner under Division 80;
110. each direction issued to a registered entity by the Commissioner under Division 85;
111. each undertaking given by a registered entity and accepted by the Commissioner under Division 90;
112. each injunction (including interim injunctions) made under Division 95;
113. each suspension or removal made under Division 100;
114. any other information:
115. that the Commissioner is authorised to collect under a provision of this Act; and
116. that is specified in the regulations.

Note: Regulations made for the purposes of subsection 40-10(1) may provide that the Commissioner must not include information on the register in certain circumstances.

(2) The Commissioner must not include the information mentioned in paragraph (1)(f) before the end of 14 days after the day the warning made or the suspension or removal occurs, unless the Commissioner considers that the public interest requires the information to be included earlier.

Register to be maintained by electronic means

- (3) The Register is to be maintained by electronic means.
- (4) The Register is to be made available for public inspection on the internet.

Note: See section 150-355 for limitations on including personal information on the register.

⁵ See Appendix 2.

Appendix 2

[ACNC Act](#)

Section 150-35 Exception - disclosure on Register to achieve objects of this Act

An ACNC officer may disclose protected ACNC information if:

- (a) the Commissioner may include the information on the Register under Division 40; and
- (b) the disclosure is for the purpose of including the information on the Register under Division 40; and
- (c) if the information is personal information (within the meaning of the Privacy Act 1988) - the disclosure is necessary to achieve the objects of this Act.