

GOVERNANCE FOR GOOD

The ACNC's guide for
charity board members



Australian Government



Australian
Charities and
Not-for-profits
Commission

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Introduction from the Commissioner



Charities are an essential part of the fabric of Australian society and reach into every community across Australia, as well as beyond our shores.

They enrich our culture, protect our environment, educate our children, enable us to practice our faith, promote our health and wellbeing, strengthen our democracy, contribute to good public policy and advocate on behalf of individuals and communities.

Charities can do none of this without their board members. These members have the ultimate responsibility for running the charity, its property, finances and the employment of its staff and volunteers. Being a board member can be incredibly hard work and is normally unpaid, but it can also be immensely rewarding.

Remember that you are not on your own. We hope this guide will provide you with some helpful information, but if you need more help our ACNC staff are committed to helping support you and your charity in its important work.

Good wishes

Susan Pascoe, AM




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Who is this guide for?

This guide is for people who are, or are thinking of becoming, board members of a charity registered with the Australian Charities and Not-for-profits Commission (ACNC).

We have used the term ‘board members’ to mean members of the governing body of a charity – the people ultimately responsible for overseeing its operations and making sure it is working towards achieving its charitable purpose. In your organisation they may be called the directors of the board of directors, members of the management committee, the governors or the trustees.

 In the *Australian Charities and Not-for-profits Commission Act 2012* (ACNC Act), these people are described as ‘responsible entities’. To make this clearer, in our guidance we use the words ‘[responsible persons](#)’ because it is easier to remember. In this guide we use ‘board members’ for simplicity.

This guide explains the responsibilities of board members of registered charities. In particular, it focuses on the framework introduced by the ACNC Act, including minimum governance standards that came into effect on 1 July 2013. We also explain how we can support you and your charity.

Why should I read this?

Being a board member of a charity can be a very positive experience. It can give you the opportunity to make a real difference in your community, but it also brings with it responsibilities. For you and your charity to succeed you should be aware of these responsibilities and your role in helping your charity to achieve its goals.

Our focus is to support charities to meet the minimum [governance standards](#) as required by the ACNC Act. But we also work to support good governance within charities beyond these standards. As part of this, we will work with the sector to produce guidance on good practices to support charities and their board members.

This guide focuses on good governance and how it helps charities in the context of their obligations under the ACNC Act. We have highlighted when something is a legal obligation, rather than optional or suggested.

Whether you are taking up the responsibilities of a board member for the first time or you are an experienced board member looking for a refresher, there is always something you can do to improve your knowledge and the governance of your charity.

Governance

What is governance?

Governance refers to the processes, activities and relationships of your charity that make sure your charity is effectively and properly run.

There is 'good governance' when charities have practices and procedures in place that help them to do their work effectively and openly, and when the roles and responsibilities of people in the charity are clearly understood. This includes the particular roles of board members and the roles of staff, volunteers and members. Of course, good governance is more than the rules of your charity and the individual behaviours of board members. It involves strong relationships between the members of your governing body and stakeholders and is much more about working as a collective than individual responsibilities.

Why is good governance important?

Good governance helps make sure that the day-to-day work of a charity aligns with and contributes to achieving a charity's purpose. It is important that board members ask why are we here, what are we doing and how will we do it? Asking these questions (and trying to answer them) helps charities to stay true to their vision and mission.

What is a charity?

The word 'charity' means different things to different people. People commonly understand charities to be organisations that exist to help others. Whether it is providing accommodation to those in need or teaching English to newly arrived migrants, charities are at the heart of the effort to make our communities safer, fairer and more vibrant places to live.

There is, however, a particular legal definition of charity. Charities must be not-for-profit, have a charitable purpose and be for the public benefit. Charities have to meet this definition and the requirements of the ACNC Act before they can be registered with the ACNC.

What are registered charities?

In this guide, we use the term 'charity' to refer to all types of charities registered with the ACNC. Charities may also be registered with other government agencies such as state and territory regulators or accreditation bodies.

The ACNC registers different 'types' or categories of charities. These are:

- charities for the relief of poverty, sickness and the needs of the aged
- charities for the advancement of education
- charities for the advancement of religion
- charities for other purposes beneficial to the community
- public benevolent institutions (PBIs)
- institutions whose principal activity is to promote the prevention or the control of diseases in human beings (health promotion charities (HPCs))
- not-for-profit child care services.

What is the role of the ACNC?

The ACNC is the independent national regulator of charities. We:

- register organisations as charities
- help charities understand and meet their obligations through information, guidance, advice and other support
- maintain a free and searchable public register so that anyone can look up information about registered charities

- work with state and territory governments (as well as individual federal, state and territory government departments and agencies) to develop a 'report-once, use-often' reporting framework for charities.

We are also responsible for ensuring that charities comply with their obligations under the ACNC Act (including regulations made under it).

> For more information, read our [fact sheet on who can register with the ACNC](#).



Your board

What is a governing body?

The governing body of a charity is the group of individuals who together are ultimately responsible for overseeing its operations and making sure it is working towards achieving its charitable purpose in a way that also meets its ethical, legal and financial obligations.

For the purpose of this guide, we refer to the governing body as the 'board' and those on it as 'board members', but it or they may have another name such as 'management committee', 'council', 'governors' or 'synod' (for some churches).

Charities come in many different shapes and sizes and so do their boards. Although boards are made up of a group of individuals, they only have the power to bind the charity as a group, not as individual members – so it is the board as a group that can make decisions, not individuals on their own. It takes teamwork.

What is the role of the board?

The board is responsible for providing leadership and strategy to a charity. It also bears ultimate legal responsibility.

Generally, boards delegate some of their responsibilities to staff or volunteers. However, there are some things that are usually reserved for the board such as appointing the most senior staff member(s) (such as the chief executive officer, if the charity has one), developing (or at least approving) a strategic plan, considering how organisational risks should be managed and calling meetings of the charity's (general) members (if any).

Every charity is different and so are their boards. However, there are some responsibilities that are common to most boards:

- accountability – making sure your charity meets its obligations, manages its finances and operates transparently
- strategy – setting the charity's long-term goals and making sure it pursues its charitable purposes
- resourcing – securing funding and other resources to support the work of the charity
- advocacy – representing the charity to the community and to its members and stakeholders (with a chief executive officer and staff, if any)
- monitoring – making sure the charity is run as required under its governing documents and the law.

What is a board committee?

This is different from a committee of management (what we have called a 'board').

Board committees can be set up because it can be hard to organise all board members to meet (at least with enough time to consider matters in detail), or perhaps because it wants to draw on the expertise of people not on the board for certain matters. Sometimes these are called sub-committees, standing committees or ad hoc committees.

For example, your board may appoint a finance committee that includes an independent person with accounting experience to ensure your charity's financial position is looked at more closely and regularly than the board may be able to. In this way, the committee helps provide the board with better information to help it make decisions, although the board retains overall responsibility.

These types of committees can be either ongoing or project-specific. For example, a committee might be established to recruit and induct new board members or to oversee a particular project (such as building works) and may only operate for a limited period of time.

Committees may make recommendations to the board, but they generally do not make decisions that bind the charity on their own behalf.

Your charity may have governing rules (see the section in this guide on 'your governing rules') about how to establish committees, what they can be used for and who can be a member. Make sure you check your rules before establishing a committee.

The board members should help your charity to stay focused on its objectives, manage its finances effectively and comply with the legal, operational and ethical requirements of your charity.

People on your board

What are board members?

Board members are the people who are either elected (usually by the charity's members) or appointed by nomination (for example, under legislation or under a trust deed) to be a member of a charity's board (governing body). These people are sometimes also called committee members, trustees, governors or directors. Just being appointed does not generally give you any individual authority to bind the charity, for example to sign a contract on its behalf – it is the board as a group that has this power.

What are 'officers' of the board?

Although boards act as a group, some board members take on extra responsibilities. For example, most boards will appoint a chair (or president), who will be responsible for running meetings and providing leadership to the board.

Some boards appoint a treasurer to be responsible for looking at the charity's finances in more detail and to help provide them with information they need to make financial decisions. But don't forget – all board members need to understand the charity's financial position, not just the treasurer.

Can anyone else attend board meetings?

Not everyone who attends a board meeting is a member of the board.

If your charity has paid staff, the senior staff member (for example, the CEO or coordinator), is likely to attend board meetings (or at least part of them). Your CEO may or may not be a member of the board – it can depend on your rules. Generally they will not be and, therefore, will not have a vote.

Some boards will have a secretary whose role includes keeping a written record of board decisions (minutes) and other tasks that help board meetings run smoothly such as preparing agendas. Often they are the person that notifies the regulator of any changes to the membership of the board, the charity's rules and other changes. Other staff, volunteers, consultants or your charity's auditor (if any) may attend board meetings if they are invited – perhaps to discuss a particular issue.

Who can be a board member?

Eligibility is different for each charity. To find out who is eligible to be a board member for your charity, check your rules and any legislation that applies to it.

For example, you cannot be a board member of a charity that is a company registered with the Australian Securities and Investments Commission (ASIC) if you have been disqualified from directing companies by ASIC.

If your board is looking to appoint new members, you might find our [quick tips on choosing a new board member](#) useful.

If you are on the board (governing body) of a registered charity, you will be considered to be a 'responsible person' under the ACNC Act.

Your charity has an obligation to notify the ACNC if there are any changes (appointment, removal or resignation) to the people on its board – to the charity's 'responsible persons'.



Common questions about board members



Can board members resign?

Yes. Board members can resign at any time. Check your governing rules to find out whether there are any steps you need to take – you may need to notify your chair or secretary in writing and the charity should notify the ACNC and any other relevant government agencies.

Consider what impact your resignation will have on the charity before choosing to resign. Ideally, look at giving a period of notice. If you are also an employee of the charity you will need to check your employment contract to see whether there is anything about how to resign as a board member. Sometimes if you resign as a staff member you will also cease to be a board member.



Can board members be paid?

Generally, people on the board can be paid if the payment advances the charity's charitable purpose and the payments are clearly authorised (such as by a meeting of the charity's members). Check if there are any rules about paying (or not paying) your board members.

If your charity is a trust, your trustees (directors) cannot be paid unless the trust deed specifically sets out that they are to be paid. Charities that are companies registered with ASIC that omit the word 'limited' from their company name must not pay their board members fees.

Payment of reasonable expenses is different to payment for services. Board members can be reimbursed (paid back) for reasonable expenses they paid while carrying out their duties. Check the fundraising regulation in your state or territory of operation as there may be rules about the payment of board members if you are fundraising.



Can board members be personally liable as a board member?

If you are complying with your legal duties, in most cases you will not be personally liable as a board member. However, this depends on the particular action and the type of charity you are on the board of. For example, board members may be personally liable for criminal or serious misconduct, or legal action taken against an unincorporated charity.

Under the ACNC Act, board members of registered incorporated charities may be personally liable for deliberate actions or omissions that breach the Act if they have acted dishonestly, with gross negligence or are reckless.

The ACNC Act treats the board members of different types of charities in different ways. For registered unincorporated associations, the obligations and liabilities are on each individual who is a director at the time. For trusts, the obligations and liabilities are imposed on the trustees. If the trustee is a body corporate (an incorporated organisation) then the obligation and liabilities are imposed on the individuals who were the directors of the company at the time.



Can board members be employees of their charity?

Your charity may have rules that set out whether members of the board can also be employees of the charity. If your charity's rules do not prohibit this, your board members can also be employees of the charity. However, be aware that this can give rise to conflicts of interest that must be managed correctly. Consider reading our [quick tips on conflicts of interest](#).



How long does a term on a board last?

The terms of appointment for board members vary between charities but will generally be set out in your charity's rules. For example, some charities will have three year terms (possibly with one third of the board retiring and two thirds continuing each year), but others will only be appointed for a year at a time. Some have a maximum term that any person can be on the board. There's no one-size-fits-all time period, so look for a model that works for your charity.



Can a board member tell a staff or volunteer member what to do?

No. If your charity has staff or volunteers, individual board members cannot direct their work unless the board member has been given authority to do so (such as by a decision of the board or if they are a more senior employee of the charity and are directing them as part that role). Generally, the board can only direct the CEO as a collective, but individual members can be authorised by the board to do so.

It is important to be clear about the roles of staff members, volunteers and board members. Everyone should understand what their role is and how it fits with others within a charity. This can help to avoid misunderstandings that can lead to disputes. Read our [quick tips on internal disputes](#) to find out more.



Can boards delegate their responsibilities?

Some responsibilities of boards may be delegated (formally handed over) to others, although this depends on

your charity's rules and any legislation that applies to your charity. Remember, even if some responsibilities can be delegated, the board still bears ultimate legal responsibility for any decisions made. In charities with paid staff, most boards will delegate responsibilities to a CEO. In others, the delegation can be to a particular volunteer or sub-committee of volunteers. Whatever the case, it is important to set out in writing what the delegation is, especially if powers of the board are being delegated.



Can a member tell a board member what to do?

In most cases, no. Board members are independent and generally cannot be directed by any general member of a charity.



Can a board member be removed?

Your charity may have rules that set out if a board member can be removed before the end of their term of appointment and how. Some rules allow for a board member to be removed by a majority vote at a meeting of the members.

A charity's rules will often set out certain situations where a board member automatically stops being a board member, for example, if the board member fails to attend a certain number of meetings throughout the year or becomes bankrupt.

The ACNC Act also gives the ACNC the power in certain serious and specific situations to suspend or remove board members of a registered charity and also to appoint an 'acting responsible entity' to act in the place of the removed board members. We will generally only take this step in very exceptional circumstances.

Your governing documents

Your governing documents set out many of the powers, objects and processes used to manage your charity. They help you make sure your charity is run well and on track.

All charities have rules of some kind, whether they are written in a formal document or are verbal agreements between members. They should be part of every charity's life. When written, these governing documents are sometimes called a constitution, a charter, articles, rules or rulebooks. In this guide, we call them 'rules'.

Your rules might be kept in more than one document. For example, your charity might have a constitution that sets out how your charity will be run and a mission statement that sets out its purpose. Religious charities may also have a religious doctrine or canon law that sets out how they are to be run.

Why are rules important?

Rules are important because they help give some certainty about how your charity is run and set out procedures that everyone involved with your charity can rely on. Rules bind you (as a board member), the charity and its members.

The ACNC will look at your charity's rules to see if they show your charity's charitable purposes. This can be part of the evidence the ACNC needs to see to make sure your charity is entitled to be registered with the ACNC. The public will be able to view the rules of registered charities on the online ACNC Register.

Your charity's rules will generally set out:

- that your charity is a not-for-profit
- its charitable purpose
- the powers the board has to run the charity
- how to become a member and the rights and obligations of members
- how members of the board (and any office bearers such as a president or treasurer) are elected or appointed
- how meetings of members and meetings of the board are called and held

- how authority is delegated to the board, staff or volunteers, and
- what will happen if the charity needs to be 'wound up' (closed down).

> **Setting out your charitable purpose and not-for-profit nature in your rules is an easy way to help you meet governance standard 1.**

See page 12 for more information about the governance standards.

It is important that your rules accurately reflect how your charity operates. If your rules are not followed, you will not be able to rely on them if there is uncertainty, which is when you need them most.

How do we show our charity is a not-for-profit?

In order for your organisation to be considered a charity, it must be a not-for-profit.

Generally, your organisation is a not-for-profit if it does not operate for the profit, personal gain or other benefit of particular people, such as its members, the people who run it or their friends or relatives – this gain or benefit is sometimes called 'private benefit'. This applies both while the organisation is operating and if it winds up.

Your rules are a good place to show that your organisation is a not-for-profit. They will contain clauses that prevent it from providing private benefit to its members. Find out more about the [meaning of not-for-profit and how to show that your organisation is a not-for-profit](#).

What is public benefit?

Charities must be for the 'public benefit'. This means that they must benefit the general community or a sufficient section of the community.

For example, an organisation will not be a charity if it exists only to make money for the members of its board – this is a private benefit. Private benefit does not just have to be money – it could be a service or goods or anything else the charity provides. The people involved with a charity, such as its staff or volunteers can benefit from the work of the charity (for example, the board members of a self-help group can still benefit from involvement with the charity) where this benefit is in line with the charity's charitable purpose.

How do I show my charity's charitable purpose?

All charities must have a charitable purpose. Your purpose is the reason your organisation has been set up, or what your activities work towards achieving. Some people also refer to this as your organisation's mission.

Your rules are a good place to show that your organisation has a charitable purpose. This is important when applying to the ACNC to register as a charity to show that your organisation is eligible to be a registered charity.

Find out more about [the meaning of 'charitable purpose'](#).

How do we adopt or change our rules?

If you are drafting your first set of rules, or making changes to your rules, your charity will need to formally adopt them. You may have existing rules that set out how this must be done, or, if your charity is incorporated, the legislation that applies to your charity may set out requirements for how to adopt new rules. If your charity is a company limited by guarantee then the *Corporations Act 2001* (the Corporations Act) applies. If it is an incorporated association then the legislation of the state or territory it is registered in will apply. Make sure you are familiar with these requirements before you start making any changes.

While it is important that you always follow your charity's rules, these must be suited to your charity – sometimes you may need to make changes to your rules. You can read more about changing your rules on our website.

When you apply for registration, you must provide a copy of your charity's rules to the ACNC. You need to notify the ACNC if you make any changes to your rules. Read more about [notifying the ACNC of changes to your charity](#).



ACNC governance standards

> The ACNC's approach to governance will be to focus on providing information and guidance to help charities comply.

To be and remain registered with the ACNC, all charities (except basic religious charities) must comply with the [governance standards](#). These are a set of core, minimum requirements for the governance of charities. They do not cover all aspects of governance, nor ensure best practice governance. We (and others such as peak bodies) provide [tools and resources](#) to promote good governance practices beyond these standards.

The governance standards will generally be applied as a set of high-level principles, rather than as prescriptive rules. This means your charity can generally choose how to comply, as long as you can demonstrate to us that this is appropriate taking into account your context such

as your size, purposes, beneficiaries and existing governance systems and processes. We are flexible in our approach to enforcing the governance standards, and focus on achieving our regulatory objectives of promoting public trust and confidence, and supporting a robust and vibrant sector.

Recognising many charities may not be aware, or have not yet had time to consider the standards, our main focus for the first two years (2013–2015) will be on providing information and guidance to help charities comply. We will consider stronger action where there are serious or deliberate breaches of the governance standards, such as where money is being diverted to non-charitable purposes, non-disclosure of serious conflicts of interest, or gross financial negligence.

Below is a brief summary of the standards, including a discussion of the legal duties for board members that are referred to in governance standard 5. More detailed guidance about the [governance standards](#) is available on the ACNC website.

The five governance standards

- 01** **Standard 1: Purposes and not-for-profit nature of a registered entity**

Registered charities ('registered entities') must be not-for-profit and work towards their charitable purpose. A charity must be able to demonstrate this to the ACNC and provide information about its purpose to the public (for example, by having a copy of its rules on the ACNC Register).
- 02** **Standard 2: Accountability to members**

Charities must take reasonable steps to be accountable to their members and provide their members adequate opportunity to raise concerns about how the charity is governed. This standard only applies to charities that have members (so not to trusts).
- 03** **Standard 3: Compliance with Australian laws**

A charity must not commit a serious offence (such as fraud) under any Australian law or breach a law that may result in a civil penalty of at least 60 penalty units (as at June 2013, this is \$10,200).
- 04** **Standard 4: Suitability of board members ('responsible persons')**

Charities must take reasonable steps to ensure that their board members are not disqualified from managing a corporation (under the Corporations Act) or currently disqualified from being a board member for a registered charity by the ACNC Commissioner. Charities must take reasonable steps to remove board members who do not meet these requirements.
- 05** **Standard 5: Duties of board members ('responsible persons')**

Charities must take reasonable steps to make sure that their board understand and carry out the duties set out in this standard. See page 14 for more information.

Your duties and responsibilities

As a member of a board, you have duties and responsibilities to your charity. Even though most board members of charities are volunteers, you still have legal duties that you must meet to ensure that your charity is well-governed.

As a board member, you have an important responsibility to your charity that requires you to put the interests of the charity ahead of your own personal interests. The specific duties vary depending on your charity's legal structure. Generally, you need to be careful and conscientious in your role and act with common sense and integrity.

Your charity can, in some situations, be liable if you don't follow your duties. In particular, one of the governance standards (standard 5) requires that charities take reasonable steps to make sure that their board members know and understand their more significant legal duties (described below) and that they carry out these duties.

The more significant duties of board members of registered charities are:

1. To act with reasonable care and diligence

As a board member, you must show a standard of care and diligence that a reasonable person would use if they were in your place. In practice, do your best to participate. Before the meeting, read and try to understand any materials you have been given about topics the board will be considering. Try to turn up to meetings on time. If you are unable to attend a meeting, give reasonable notice and try to catch up afterwards.

If you have any questions about any of your board's business, always ask the other board members or staff and make sure to leave time for thinking about your decision. If you do not feel comfortable making a decision on something, it may be worth asking for more time. You should feel confident to independently make decisions and not just follow the crowd. Sometimes, you should request that your separate view be recorded in the minutes.

? **Ask yourself** – would someone who was observing me think that I was being careful and conscientious in my duties?

2. To act in the best interest of your charity and for a proper purpose

When acting as a board member you must make decisions that are in the best interest of your charity and to further its charitable purpose.

If you are on the board as a representative or nominee of another organisation, you will generally have to make decisions that are in the best interest of the charity (rather than, for example, the organisation that nominated you).

? **Ask yourself** – is this decision in the best interest of my charity and does it further its charitable purpose?

3. Not to improperly use information or your position

Sometimes as a board member you will come across information that could be used for your personal or other interests. Any special knowledge that you gain as a board member must only be used for the benefit of the charity and never to further personal or other interests.

For example, you might learn about the details of a tendering process or the private details of staff or clients. Keeping this information private is one of your responsibilities as a board member and this information must not be used except in the interests of your charity.

? **Ask yourself** – am I using information I have obtained as a board member for the benefit of my charity or am I using it for my own interests or the interests of my family or others I have a relationship with?

In your role as a board member you may have the opportunity to use your position for personal gain or to benefit someone else such as a family member or friend.

For example, using your position as a board member to get services that your charity provides for your friend that does not quite meet the charity's guidelines.

? **Ask yourself** – am I using my position as a board member for the benefit of my charity or am I using it for my own interests or the interests of my family or others I have a relationship with?

4. To manage financial affairs responsibly

Many charities receive donations from the public, government funding and taxation concessions or exemptions, and must have financial management practices in place to ensure that a charity's resources are used effectively and protected from misuse.

Charities should have appropriate and tailored financial systems and processes, suitable to the size and circumstances of a charity and the complexity of its financial affairs.

? **Ask yourself** – are there systems and processes in place that ensure that your charity's resources are being effectively put towards your charitable purpose and are protected from misuse?

5. To disclose and manage conflicts of interest

Conflicts of interest occur when your duty to act in the best interests of your charity is or may be in conflict with the opportunity or potential to get a personal benefit (or a benefit for a person or organisation you have a relationship with).

If you have a conflict of interest (or perceived conflict), inform your board as soon as possible. Generally, it is best (and often required by your rules or any legislation that applies to your charity) not to take part in any discussion or decision-making where you have a conflict of interest.

Conflicts of interest are common and do not have to be a serious problem. However, if a conflict of interest is not managed properly, it may damage your charity's reputation and, in serious cases, even break the law. Even the perception that a conflict exists, even if there is no actual conflict of interest, requires you to take steps to ensure you do not breach your duty.

For more information, consider reading our [quick tips on managing conflicts of interest](#).

? **Ask yourself** – would an independent observer be sure that I was only acting in the best interests of my charity? Or might they think I was acting in some way for my own interest?

6. Not to allow a charity to operate while insolvent

You must ensure that your charity can pay its debts when they are due. This is called being solvent. If your charity is unable to do this then it will be insolvent. As a board member, you must not allow your charity to continue to take on new debts (for example, wages, rent, equipment lease payments) if you know the charity will not be able to pay those bills when they are due.

? **Ask yourself** – will my charity be able to pay its debts when they fall due?

Governing your charity

The most important part of your work in a charity is actually doing what your charity was established to do. However, as a board member you must make sure that not only is your charity doing good work, it is also properly governed.

Do we have to hold meetings?

Often, to get the work of your charity done, your board will need to hold meetings.

Some can be informal (such as over the phone or around your kitchen table), while others must follow certain requirements. Your rules and any legislation that applies to your charity may set out:

- how many meetings must be held and when (such as your annual general meeting)
- who needs to be at the meetings (there may be a quorum requirement, where a certain number of people must be present for the meeting to be valid)
- whether minutes need to be taken, how they are to be kept and who can read them
- who can vote on certain topics and how voting happens.

Be familiar with any requirements your charity may have for holding meetings, and be clear about what kind of meeting you are holding. For example, how you run the meeting and the responsibilities of the people attending will be different if it is a board meeting, compared with a meeting of your members (even if the board and the members are the same people).

You may like to read our [quick tips on holding annual general meetings](#).

Do we have to keep records?

Keeping records allows you to have an accurate account of your charity's important information. You should consider what kind of information it is important for your organisation to keep and also whether there are any privacy or any other legal considerations for the sorts of records you keep. For example, you might keep records on:

- your financial statements such as bank statements, and receipts to show any money coming in or going out (including any payments or donations, funding contracts or receipts) meetings held by the charity (particularly meetings of your board and annual general meetings)
- your charity's activities (such as annual reports or other documents that allow you to show what kind of activity your charity has been undertaking).

Registered charities are required to keep records under the ACNC Act, usually for seven years. In particular they must keep records that correctly record:

- (and explain) its transactions, financial position and performance to enable true and fair financial statements to be prepared and audited (if needed), and
- its operations.

How do we manage the people involved in our charity?

The people involved with your charity are at the heart of what it does – whether they are paid or volunteer members, it is important to consider how you manage their involvement.

Having staff is an important responsibility. Make sure that they have a safe workplace and that their conditions are lawful, fair, and clear to both the staff and the board. There are resources available that can help you. For more guidance that may be useful for your charity, visit agencies such as:

- [Safe Work Australia](#) – health and safety laws
- [Fair Work Ombudsman](#) and [Australian Human Rights Commission](#) – employment and equal opportunity
- [Australian Taxation Office \(ATO\)](#) – employees and taxation.

Make sure your charity is clear about who is a board member, a staff member, a volunteer or a contractor – your responsibilities to each person will depend on their status with your charity.

In smaller charities, sometimes these roles will be less clear and often the roles of volunteers, board members and staff will overlap. While the people may be the same, the roles are different and so are their responsibilities.

Some charities will choose to use ‘contractors’ who are paid by the charity but who are not ongoing employees. Be familiar with the specific tax conditions for having contractors, before your charity uses one. The ATO provides guidance on [contractors and tax](#) that may be useful to your charity.

Volunteers are a precious resource to charities and it is important that you make sure that your volunteers are supported, safe and valued. Volunteers require training and support, so consider forming a plan on how your charity will recruit, train and supervise its volunteers. The ATO also provides guidance on [volunteers and tax](#) that may be useful to your charity.

PilchConnect (a service run by a registered charity) provides a free useful guide that explains the difference between employees, contractors and volunteers.

Even if you have a treasurer (or someone with accounting experience) on your board, it is important that all the other board members also take their obligation to monitor the charity’s financial position seriously. All board members should feel comfortable to ask questions on financial matters and to be able to understand the charity’s financial statements.



Overseeing your charity's finances

A key responsibility for your board is to make sure your charity has the resources it needs to carry out its work, meet its debts and achieve its purpose.

What about raising money?

There are a number of ways your charity can raise money. Charities commonly raise money through membership fees, seeking donations from the public, government funding and/or holding events.

No matter which way your charity raises money, it is important that you understand the obligations that come with receiving money. You may have to comply with [fundraising regulation in your state or territory](#), meet certain obligations under a government funding contract or comply with your obligations as a trader. The ACNC does not regulate fundraising. It is important to consider these obligations before you start raising money.

Do we need financial controls?

Keeping an eye on your charity's finances is crucial to ensuring your charity has access to the resources it needs. Regularly review your financial position and your charity's ability to pay for its upcoming expenses. Ensure that your processes for money-handling are safe and secure to protect against fraud and financial crime. It can be hard to believe, but theft does happen in charities – it is uncommon, but simple steps can help prevent problems.

Some boards will appoint a finance committee to look into your charity's finances more deeply. This committee usually reviews financial reports to the board in greater detail and provides advice to the board on the organisation's financial position. Your financial information should be presented in a clear way that can be understood by the members of your board and anyone else who has to deal with it.

Consider whether your charity needs to (by law) appoint an auditor.

For more information, read our [quick tips on basic financial controls](#) and preventing fraud and other financial crime. We have also produced a guide about protecting your charity from fraud which has lots of practical and simple things you can do.

What if things go wrong?

When facing financial trouble, there are steps you can take to manage it and to reduce the risk of it happening again.

If you are familiar with your charity's finances (how much money you have, where it comes from and what it is being spent on) this will allow you to respond to any trouble quickly and effectively. Acting early gives you more options and could help you prevent your charity from closing down.

More resources

Make sure you are familiar with your ongoing obligations (including financial reporting) to the ACNC, and also to other government agencies or under grant agreements. You can take a look at our:

- [list of other regulators](#), and the obligations your charity may have to them
- [state and territory factsheets](#)
- [guidance on financial and other reporting to the ACNC](#)
- our [quick tips on finance and fraud](#) and guide on [protecting your charity from fraud](#).

Your charity may have other obligations to manage its finances or make financial reports to other government agencies.

Your obligations to the ACNC

> This section relates to the legal obligations of registered charities to the ACNC.

If your charity is registered with the ACNC, it has obligations it must meet to maintain its registration.

The obligations of registered charities can be grouped into obligations to notify us of certain changes, keep records and to report to us each year. Your charity does not have to pay a fee to the ACNC for meeting any of our obligations, as long as it meets these within the required time period.

Your charity may have to pay a penalty if it doesn't meet its obligations on time. Your charity must also make sure it continues to meet the requirements for ACNC registration, including complying with the governance standards (and external conduct standards when they are in force) and pursuing its charitable purpose.

What about other regulators my charity must deal with?

As with other types of organisations, charities must meet a range of legal requirements imposed by government agencies at local, state and territory, and Commonwealth levels. Sometimes this regulation is specific to charities, sometimes it will apply to charities and other not-for-profits (such as fundraising and legal structure) and sometimes it will apply to charities and business (such as work health and safety regulation). Often there will be different requirements depending on the type of activities the charity does (such as working with children or providing aged care services).

Read our [list of other regulators that may affect charities](#), or our [factsheets on the state and territory regulation of charities](#).

What does my charity have to notify the ACNC of?

If your charity changes its legal name, address for service (the contact details you have given that the ACNC can use to contact your charity), board members or governing rules you must notify the ACNC. It is important to keep your entry on the ACNC Register up-to-date – otherwise people who are searching for your charity may think it has closed down.

You must also let us know if you think your charity isn't meeting its obligations and is no longer entitled to be registered with the ACNC. For example, if your charity's purposes are no longer charitable, you must notify us.

Find out more about [notifying the ACNC of changes to your charity](#).

Do we have to keep records?

Registered charities need to keep both financial and operational records. There is no requirement that you use a particular system, process or format for keeping records. They must be easy to access and made available to the ACNC upon request. Records must usually be kept for seven years.

Financial records are documents that allow you to explain your charity's financial transactions, position and performance and allow financial reports to be prepared and audited (if required).

Operational records are any other documents about your charity's activities (operations). These may include meeting minutes, reports, and written details of your charity's activities, programs or services. Most charities have this information and summarise it in an annual report. You need to keep records that allow us to assess whether your charity remains entitled to its registration and that it is complying with its obligations under the ACNC Act. Records must also allow the ATO to decide whether your charity is complying with any relevant taxation laws.

Find out more about [record-keeping obligations to the ACNC](#).

Unless we or another government agency tell you otherwise, continue to comply with any obligations your charity may have to any other government agencies.

The ACNC is working to reduce the duplication of obligations, such as reporting to other government agencies.

Does my charity have to report to the ACNC?

Registered charities must report each year to the ACNC.

The reporting requirements vary depending on the size of the charity. Small charities do not need to provide as much information as medium or large charities, which will (from 2014) usually need to provide financial reports.

From 1 July 2013 all registered charities will have to provide an annual information statement (AIS) to the ACNC. The statement is brief, so it is not expected to require significant extra work or any change to current systems. You have up to six months from the end of your reporting period to lodge your AIS. You can do this online and there are no fees.

If your charity is a company it will now be able to report to the ACNC rather than the Australian Securities and Investments Commission (ASIC). Reporting to the ACNC is free.

> For more information, see [our factsheet on charities registered with ASIC and the ACNC](#).

Find out more about [reporting to the ACNC](#).

Charities that are Indigenous Corporations will satisfy their AIS and financial reporting obligations by lodging their annual report with the Office of the Registrar of Indigenous Corporations (ORIC), meaning these charities only need to report once. This will apply at least until 2014–15.

What are 'governance standards' and 'external conduct standards'?

Under regulations related to the ACNC Act, all registered charities (other than basic religious charities) must meet a set of governance standards before they can be and remain registered with the ACNC. These standards set out a minimum standard of governance to help promote public trust and confidence in charities. More detailed information is available in this guide on page 12 and on the ACNC website.

! Basic religious charities do not have to provide annual financial reports or comply with the ACNC governance standards.

Find out more about [basic religious charities](#).

Your charity changes or things go wrong

Sometimes things change – what you thought would work when you started out might not be what works best for your charity later on and sometimes things don't go exactly as planned. Be aware of potential risks to your charity and try to have a plan in place to handle them.

What if we have an internal dispute?

Internal disputes need to be taken seriously, but there are steps you can take to resolve them. Internal disputes involve disagreements between groups or individuals within a charity. For example, if a member of staff disputes a decision taken by the charity's board about how the charity is run. The ACNC does not have the power to deal with internal disputes in charities unless there is a serious risk to public trust and confidence. For example, if the dispute has the potential to result in a breach of the ACNC Act. It is not our role to mediate disputes, but there are other organisations that can help.

It is often a good idea to have a provision in your charity's rules that sets out how a dispute will be resolved. It is always better to have the process in place before you need it.

Read our [quick tips on internal disputes](#) to find out more.

What if we have a conflict of interest?

Conflicts of interest can happen often. If these are properly managed they do not have to cause a problem. A conflict of interest occurs when a person who has a duty to act in the best interests of another has the opportunity or potential to 'use' that information or their position in some way for their own personal benefit (or for the benefit of a person or organisation they have a relationship with). Read our [quick tips on conflicts of interest](#) to find out more.

Disclose any conflicts of interest to the board as soon as you are aware of them. Unless the board consents, you should not participate in any discussion or decision-making on issues where you have a conflict of interest. It is usually better if you leave the room until the discussion is over.

> **Be sure that everyone involved with your charity understands their role and responsibilities and acts quickly to resolve any disputes.**

Remember, disputes can destabilise a charity and can distract you from carrying out your charitable purpose.

What if my charity winds up?

'Winding up' means closing down your charity. There are many reasons that charities choose to wind up. Some charities wind up because they have achieved their mission or if they merge their operations with another charity. In other cases, they wind up because they can no longer pay their debts. Whatever the reason for winding up, your charity may have procedures that it must follow set out in its rules or in any legislation that applies to it. Contact your [incorporating regulator](#) to check if there are any procedures your charity needs to follow. It is in your best interest to [notify the ACNC](#) so that your charity no longer has to meet its obligations under the ACNC Act.

! Remember, from the date your charity ceases to be registered with the ACNC it will lose its eligibility to receive Commonwealth tax concessions and access to certain other concessions, benefits and exemptions.

Can my charity's registration be revoked?

Your charity might decide that it no longer wants to be a registered with the ACNC. A charity may choose to request that their registration be cancelled (revoked) because it is winding up or if its purposes are no longer charitable. Whatever the reason, if your charity decides that it no longer wishes to be a registered charity, you can complete the '[Application to revoke registration as a charity](#)' form to cancel your registration.

The ACNC Act gives the ACNC powers to make sure the community continues to have high levels of trust and confidence in the sector. These powers aim to protect the reputation of charities doing the right thing. In cases where charities are guilty of serious misconduct, we have the power to revoke a charity's registration.

What if my charity becomes insolvent?

Being insolvent means that your charity cannot pay its debts when they are due to be paid. If you think your charity may be insolvent, or at risk of becoming insolvent, you should seek professional advice immediately. You may need to notify your state or territory regulator if your charity is incorporated.

Top 10 tips for board members

01

Know what the charitable purpose of your charity is and make sure you and your charity are working towards it – if you are unsure, ask yourself whether your actions promote your charity's charitable purpose.

02

Be clear about your role and make sure that the roles and responsibilities of everyone at your charity are well understood, whether these are volunteers, members, board members, clients or employees.

03

Understand your charity's financial position and be familiar with its financial statements – everyone on your board shares a responsibility to make sure your charity's finances are well-managed.

04

Keep your responsibilities and legal duties as a board member in mind when making decisions as a board member, particularly difficult ones.

05

Have a copy of your rules: read them, understand them, follow them and if you are ever unsure, ask your other board members or get professional advice.

06

Although board members act as a group, do not just follow the crowd. You should always do what you think is best for your charity, even if sometimes it means taking a different view to other board members.

07

Understand your charity's obligations to government agencies (such as the ACNC and other regulators) and make sure your charity is meeting them.

08

Listen to the other board members and work as part of a team. Your board shares a collective responsibility for the organisation and you should see board members as colleagues.

09

Be confident to declare and manage conflicts of interest responsibly. Most members of a board will encounter conflicts of interest and you should feel confident to handle them responsibly.

10

Always act in the best interests of your charity – as a board member you have a responsibility to put the interests of your charity above your own personal interests.

Resources for charities

There are a number of resources on governance (including websites, guides and factsheets) available to charities from both government and non-government sources. We have listed some of these below, and will continue to update these details.

Australian Institute of Company Directors

www.companydirectors.com.au

Chartered Secretaries Australia

www.csaust.com

Community Door

communitydoor.org.au

Connecting Up

www.connectingup.org

CPA Australia

www.cpaaustralia.com.au

Inc. – A guide for incorporated associations
in Western Australia

www.commerce.wa.gov.au/associationsguide

Institute of Chartered Accountants Australia

www.charteredaccountants.com.au

Not-for-profit Compliance Support Centre

www.nfpcompliance.vic.gov.au

Our Community

www.ourcommunity.com.au

Philanthropy Australia

www.philanthropy.org.au

PilchConnect

www.pilch.org.au

Queensland University of Technology –
Developing Your Board Wiki

<https://wiki.qut.edu.au/display/CPNS/DYB+Home>



