

National Volunteer Guide (Part 6)

Part 6 provides guidance on organisational issues applicable to volunteers – intellectual property, privacy and record keeping

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Part 6

**Organisational issues applicable to
volunteers – intellectual property,
privacy and record keeping**



Introduction to the key organisational issues applicable to volunteers

This part covers:

- ▶ introduction to the key organisational issues
 - ▶ intellectual property
 - ▶ privacy law, and
 - ▶ record keeping
-

Introduction

This part of the guide covers some of the key organisational issues that volunteer involving organisations often come across. For example:

- Who owns photographs taken by a volunteer for use on our social media sites?
- Are obligations regarding use of confidential information the same for volunteers as they are for employees?
- What are our privacy obligations towards our volunteers?
- What records need to be kept in relation to volunteers? What about records involving personal information (for example, a copy of the volunteer's Working with Children Check)? For how long should we keep these records?

This part begins by providing a brief overview intellectual property. Each form of intellectual property is different in terms of what it covers, how long the protection lasts and a number of other matters. Volunteer involving organisations need to understand the differences between these forms of intellectual property because in some circumstances the law treats volunteers differently.

A volunteer involving organisation must make their volunteers aware of the organisation's obligations, where applicable, in relation to personal information it may collect from people, including clients, workers and members. Volunteer involving organisations must also be aware of the obligations they owe to their volunteers in relation to the personal information of those volunteers.

While there are other laws that apply in relation to the keeping of records about volunteers, even where these laws don't apply, it's a good idea to keep records of your volunteers for a number of reasons (including internal organisational reporting, possible disputes or legal action, and requirements under insurance policies).



Intellectual property

Overview

As part of its activities, your organisation will develop, hold and use intellectual property. This can include your organisation's name, its logo and the names and logos of programs and services it provides.

Your organisation may produce training materials or a report on the organisation's activities; it may create photos or other artistic materials and use these in the organisation's publications or on social media.

It's important that your volunteer involving organisation understands how intellectual property is created, who owns it and how ownership can be changed.

This understanding (and the taking of any necessary action) will help make sure:

- your organisation's intellectual property rights in material produced by volunteers are protected, and
- your organisation doesn't infringe a volunteer's intellectual property

Infringement of IP rights, even unintentionally, may lead to undesirable consequences (for example, legal action against your organisation).

What is intellectual property?

Intellectual property or 'IP' is a legal term used to describe the property of your 'mind'. It can take many forms, with the most common being an invention, trade mark, design or the expression of an idea. These forms are all different in what they protect, how they are protected, how they are enforced and exploited, and the duration of the protection.

Intellectual property rights can be described as a series of 'negative rights' meaning they give the owner of the intellectual property the right to 'exclude' others from use of the intellectual property (for example, the creator of a literary work has a right to prevent others from publishing the work).

An IP owner also needs to take certain steps to exploit their own rights, for example, by publishing the literary work or by licencing or assigning the work.

In Australia, IP rights are protected under Commonwealth legislation (laws passed by Parliament), as well as by common law (judge made law). In some instances, IP protection is automatic and doesn't require any formal registration (for example, copyright), while in other cases, you must formally apply to register the IP to protect it (for example, patents).

Whether a person works for your organisation as an employee, contractor or volunteer will have consequences for the ownership of the intellectual property created by that person.

Copyright

Copyright includes original ideas and information which are written down or 'fixed' in material form (not simply ideas). This can include writing, drawings, diagrams and patterns. **It is the expression of the idea, not the idea itself that is protected by copyright.** In Australia, the relevant law is the *Copyright Act 1968* (Cth). There is no need to 'register' copyright material.

For most material, copyright protection will last for 70 years from the end of the calendar year in which the author of the material dies. The owner of the copyright has the exclusive right to do a number of things with the material, including:

- copy or reproduce the copyright material in any format (for example, scan, print or photocopy)
- publish the material (for example, in hardcopy or electronic form)
- perform the material in public (for example, present it at a conference or training session)
- make an adaptation of the material (for example, translate it into a different language, or update it over the years), and
- communicate the material to the public (for example, publish or broadcast on the internet)

Ownership of copyright

There is potential for misunderstanding about whether copyright is owned by an organisation as a whole, or by the person in the organisation who created it. This is a common issue faced by volunteer involving organisations.



It's particularly important given the default position at law - as a general rule, copyright is owned by the creator of the material. There are exceptions to this rule. Examples include:

- Employers will own copyright in certain work produced by employees in the capacity of their employment.
- Works subject to an agreement with a government department. Unless the agreement specifies otherwise, there is a presumption that the copyright in any work produced under the agreement belongs to the government department. This rule applies even where the government department is not the creator of the material.



Example

Justin volunteers at a local environmental protection organisation. He is a keen photographer and takes photographs of trees and other local plants in the area for the organisation to use on its website and social media sites (for example, Facebook and Twitter).

Unless Justin and the organisation have agreed otherwise in writing, Justin owns the copyright in the photographs.

Transfer of ownership of copyright (assignment)

It's possible for a creator to agree (by clear written agreement) to transfer ownership of copyright in a work to another person or organisation. This is called an assignment of copyright. This may be relevant where work is created on commission for your organisation (for example, a logo or website design).

If your organisation wants to own the copyright in material created by a volunteer (or in work it commissions from another person or organisation), it should enter into a written agreement with the creator of the material that clearly states that the copyright in the material created will be held by your organisation. The agreement should be signed by the volunteer or other person creating the material, and by your organisation.

In the absence of a written agreement to this effect, the copyright will be owned by the volunteer who created the work and the organisation will have no legal right to use, copy, duplicate or publish the work.

Authorised use of copyright (licence)

It's also possible for one person to keep the copyright ownership in a work but to grant another person a licence to use the work as they need to. For example, your organisation might commission an academic to produce a report for your organisation. You could enter into an agreement with the academic that provides that your organisation keeps the copyright in the report but the academic can use the work within certain terms – such as publishing the report within a broader academic study. This is called a 'non-exclusive licence'.

Use of licences may often be inappropriate because your organisation will want to be the only party allowed to use the copyrighted material (depending on the nature of the copyrighted material) and it will likely want to make additions to the copyrighted material over time. Who owns these additions can become a complex question and lead to disputes.

As with transfers of copyright ownership, any agreement to grant a licence should be made in writing and make sure the organisation which owns the copyright is not prohibited from also using the copyright.

Agreements with volunteers about ownership of copyright

If you have had volunteers producing material for you but haven't had an agreement in place which deals with the ownership of copyright in material produced by the volunteer, it's still possible for the volunteer to assign their copyright to the community organisation, such as under a Deed of Assignment.

If the volunteer doesn't agree to assign their ownership in the copyright to your organisation, you should stop using any material in which the volunteer owns copyright immediately to prevent your community organisation potentially infringing the volunteer's copyright.



Tip

For more information about deeds of agreement, see part 5 of this guide which includes a sample Deed of Agreement that covers confidential information and intellectual property.



Example

Sam drafts an original training manual for a community organisation in 2018, while completing a volunteer placement. Sam dies in 2021. His copyright in the work will therefore continue to exist until the start of 2092.

Infringement of copyright

Copyright is generally infringed if someone, who is not the owner of copyright, exercises one of the copyright owner's exclusive rights (such as publication) without the owner's permission.

A person may also be liable for copyright infringement if they are found to have authorised another person to infringe the copyright. 'Authorising' can mean asking someone to infringe copyright, or allowing someone working under your supervision to infringe copyright.

Examples of uses of material that may infringe copyright include:

- photocopying, emailing, broadcasting or printing material
- recording a video that incorporates music that is subject to copyright protection, or
- communicating material to the public by making it available on a website

There are a limited number of exceptions to copyright infringement, including research and study, parody and satire. However, there is no general exception for not-for-profit community organisations.

If your organisation wants to use the copyrighted work of another person or organisation, it must first seek and obtain permission from the copyright owner before doing so. When seeking permission from the owner you should be clear about the copyright material in question, how you will use the content, where you will use the content and for how long your organisation intends to use the content. The permission should be documented in writing.

Trade marks, patents and designs

The other main forms of intellectual property are set out below. In all instances, the best way for a volunteer involving organisation to protect these forms of intellectual property is to register them with IP Australia.

Trade marks

Trade marks are words and images used in relation to particular goods or services (for example, logos and brand names). In Australia, the relevant law is the *Trade Marks Act 1995* (Cth), which sets out the criteria for registration along with other matters including the length of protection (10 years from date the registration is filed, renewable indefinitely).

An organisation can use a word or logo as a trade mark without it being registered with IP Australia. However, registration confers a number of rights (which are legally enforceable) on the holder of a registered trade mark, including:

- the exclusive right to use and authorise the use of the trade mark in relation to the goods or services for which the trade mark is registered
- the right to get relief if the trade mark is infringed (for example, an injunction or an order to the infringer to cease using the infringing trademark)
- the right to assign or licence the trade mark, and



- protection of the trade mark rights being infringed by third parties through the imposition of penalties including criminal penalties (for example, falsifying a registered trade mark or falsely applying a trade mark)

If a trade mark is not registered, the owner has limited rights if it's misused or infringed. Legal action is usually limited to a claim of misleading or deceptive conduct under Australian Consumer Law or 'passing off' under the common law.

A trade mark should be registered in the name of the organisation itself, being the legal entity having ownership of the trade mark, even if a volunteer has assisted in the creation of the trade mark. The legal position is different if the organisation is an unincorporated association (see below).

Patents and designs

A patent generally means an invention or innovation. In Australia, the relevant law is the *Patents Act 1990* (Cth). Once registered with IP Australia, protection lasts up to 8 years for an innovation patent, 20 years for a standard patent and 25 years for patent of a pharmaceutical substance.

A design generally means a shape, configuration, pattern and ornamentation, which gives a product a unique appearance. In Australia the relevant law is the *Designs Act 2003* (Cth). Once registered with IP Australia, protection lasts five years from the filing date of the application to register (the registration can be renewed for an additional period of five years).

In both cases, a patent or design should be registered in the name of the organisation itself, being the legal entity having ownership of the patent or design, even if a volunteer has assisted in the creation of the patent or design. This is unless the organisation is an unincorporated association.

Unincorporated associations

While registration of a trade mark, patent or design will usually be in the name of the organisation, this can't be the case where the organisation is an unincorporated association. This is because an unincorporated association is not a separate legal entity - it can't own IP in its own name. In this situation, it's common for registration to be in the name of a member of the governing body of the unincorporated association. In this instance, it's important to document in writing that the member of the governing body doesn't hold the registration for their own benefit but for the benefit of the unincorporated association.



Relevant resources

For more information on trade marks, patents and designs, go to Not-for-profit Law's [webpage on Intellectual Property](#) or refer to [IP Australia](#).

Moral rights: what are they?

Moral rights are the rights of a creator to be attributed as the author of a work, and to have their works treated with respect. They are personal to the creator which means the rights can't be transferred or assigned.

Moral rights mean that a creator can insist on being given credit for the work, not having someone else be attributed as a creator, and that their work not be changed or added to in a manner that would have a negative impact on the creator's reputation.

However, a creator can waive their rights or give consent to certain things that may otherwise breach their moral rights. Creators have moral rights in a work even if they don't own copyright in the work.

In the context of volunteers, this means that even if a volunteer assigns their copyright in a work to an organisation, they must also waive their moral rights in writing. Otherwise, the volunteer may insist that the organisation attribute them as an author and not change the work in a way that would negatively impact on the volunteer's reputation.



Example

Kayla volunteers at a local dog rescue home. She writes an article on canine enrichment for adopted dogs for publication on the home's website.

Unless Kayla has waived her moral rights, she can insist that she be recognised as the author of the article and that the article not be changed in a manner that may negatively affect Kayla's reputation.

Avoiding infringing moral rights

To avoid infringing a volunteer's moral rights in works they create for your organisation, your organisation should make sure it has written consent from the creator of material to use the material in the way it intends without attribution.

This means your organisation should consider having a written agreement with the volunteer that gives your organisation consent to do things that otherwise might infringe the creator's moral rights. For example, not naming the volunteer on your organisation's website as a creator of material used on your website.

In many circumstances your organisation may not wish to identify the person as an individual creator of the work or your organisation may wish to modify the work in future. This written agreement can be included in a volunteer agreement signed at the beginning of the volunteering arrangement (see part 2 of this guide) or it can occur at a later time. In the absence of the creator's consent, failing to identify the creator will infringe the creator's moral rights.

Confidential information

Strictly speaking, confidential information is not property although it may be the subject of separate IP rights, for example, a patent. Confidential information creates an obligation in law to keep the confidentiality of information when it's disclosed to someone on a condition of confidentiality.

Organisations often reveal confidential information to their employees or volunteers so they can perform their role (for example, an organisation's client and contact lists or funding information). The employee or volunteer will be prevented by the law of confidential information from using or disclosing the information in a way that was not intended by the employer.

While the law requires that certain information must be treated as confidential, the obligation to treat information in confidence does not necessarily extend to volunteers unless the confidentiality of the information is made very clear.

The best way to make sure people understand they are receiving confidential information is to mark the information as confidential and to make sure they understand it must be treated in confidence. Confidential information should be stored securely with restricted access.

If a person who receives confidential information breaches their duty of confidence, the law may provide a remedy. Often this remedy will be damages (monetary) or an injunction (a court order to stop a person who has threatened to make confidential information public). This could happen if a person tells others about (or threatens to tell others) information in circumstances where:

- the information is, and is treated as confidential information (for example, confidential documents are marked confidential and access to them is restricted and secured)
- the information has been disclosed to someone in circumstances which indicate that it is confidential and must be treated in confidence, or
- the use or disclosure of the information was not authorised

Protection of confidential information lasts as long as the information stays confidential.

However, once confidential information has been disclosed (made public) it will no longer be confidential and can't become confidential again.



Tip

It may be appropriate to include a disclaimer, such as the following example, on sensitive material to help demonstrate that there is no intention to disclose the material publicly, and to remind recipients of the information about its confidential nature:

Important notice:

The information in this document is confidential information of XYZ Community Organisation and all copyright in any works in this document is owned by XYZ Community Organisation.

The information in this document is provided only for the purposes of [insert authorised purpose] and must not be disclosed, reproduced, published, performed, communicated to the public or adapted by any person for any other purpose, except with the prior written consent of XYZ Community Organisation.

Using confidentiality agreements

A confidentiality agreement is an agreement between two parties (for example, a volunteer and your organisation) which sets out the terms and obligations that apply to confidential information which is received or shared between the parties.

A confidentiality agreement provides a clear way for your organisation to protect your rights in respect of confidential information. If you expect that volunteers will have access to confidential information, it's a good idea to ask them to sign a confidentiality agreement before they start volunteering.

The confidentiality agreement may be a separate agreement or part of an existing agreement (for example, the volunteer agreement). If an agreement is not put in place before confidential information is disclosed to a volunteer, you should immediately ask the volunteer to enter into an agreement which obliges the volunteer to not disclose or use any confidential information received to date (and which may be received in the future) otherwise than in their role as a volunteer for your organisation.



Example

HealthyHeads is a suicide-prevention charity. It has developed a unique therapy treatment.

Kylie is volunteer who takes initial phone calls from potential clients. As part of her role, Kylie receives some training in how the therapy works. To make sure Kylie can't disclose the workings of its unique therapy, which is similar to a trade secret, HealthyHeads makes sure her volunteer agreement includes a provision which obliges her not to disclose or use confidential information (including details of the therapy) to anyone outside HealthyHeads.

If the volunteer doesn't agree to sign the agreement, your organisation will have to rely on the volunteer's obligation of confidence. As outlined above, this obligation will arise where, in disclosing the information, the organisation clearly communicated the information in confidence (that is, the volunteer was aware that the information is confidential).

An obligation of confidence will not always arise and will depend on the facts of each case. Also, as outlined above, you may need to go to court to enforce an obligation of confidence. For these reasons, it's better to make sure all volunteers enter into an agreement which includes a confidentiality provision at the beginning of the volunteering relationship.

**Tip**

A confidentiality agreement should:

- define the information that is considered confidential
- confirm that the confidential information must be kept confidential, and
- clearly define the limited purposes for which the confidential information may be used

You should also be aware that, even if all steps are taken to protect the confidentiality of information, there are some circumstances in which disclosure can be required by law. For example, courts can impose an obligation that information (including confidential information) be produced to the court through a request (a subpoena) if disclosure of the information is considered to be in the interests of justice.

**Tip**

For more information about deeds of agreement, see part 5 of this guide which includes a sample Deed of Agreement that covers confidential information and intellectual property.

Accusations of infringement of another person or organisation's intellectual property

If a volunteer accuses your organisation of infringing their intellectual property, you should:

- try to negotiate with the volunteer to identify what intellectual property they think has been infringed and how
- if feasible, stop using the intellectual property immediately, or come to an agreement with the volunteer to assign the intellectual property to your organisation
- seek legal advice to determine whether the volunteer's claim has merit (that is, whether it's substantial enough that it could be pursued in the courts) and how to resolve the dispute

If you are accused of infringing another person or organisation's intellectual property, you should:

- if you consider the accusation has merit, stop carrying out the allegedly infringing activity as soon as possible, and
- seek legal advice

Summary: Ownership of intellectual property

Understanding the different forms of intellectual property is critical to making sure any IP produced by volunteers is protected. As outlined above, your organisation can only consider how to best protect the organisation once it understands who owns the IP.

The table below summarises the law in relation to each form of IP and ownership.

When the creator or author of the material is a volunteer			
Copyright	Trade marks, patents and designs	Confidential information	Moral rights
If a volunteer creates copyright material for your organisation, they will own copyright in the material	Registration rights attach to trade marks, patents and designs when they are registered with IP Australia	The obligation to keep some information confidential may arise in a volunteer relationship. This	Volunteers will have moral rights in respect of any literary, dramatic, musical or artistic work which they



unless there is a written agreement otherwise.

It's important to have an agreement with volunteers about copyright ownership before they create material for your organisation to make sure copyright is owned by the organisation when it's created.

However, if this doesn't occur, the volunteer can agree in writing to assign copyright ownership to the organisation.

under the relevant legislation. For this reason, a volunteer will not own or have any rights in relation to a trade mark, patent or design registered with IP Australia in the name of your organisation.

However, if a volunteer develops a trade mark (for example, by drawing a logo or stylised word or word combination) the logo or stylised word mark may be protected by copyright.

It's important to reach an agreement with volunteers about all intellectual property ownership before they create material for your organisation.

will generally be the case where information disclosed to the volunteer was done expressly in confidence.

produce for your volunteer involving organisation, unless they expressly waive their moral rights.

When the creator or author of the material is an unpaid worker, such as a person doing work experience or a vocational placement or internship

Copyright

Copyright in material created by students during unpaid work experience, vocational placements and internships will be owned by the student or by the tertiary institution where the student is enrolled unless there is an agreement otherwise.

Your organisation should discuss copyright with the student and their institution before the student joins your organisation. If your organisation wants to keep the copyright in any work created by that student, you should arrange a written agreement assigning copyright to your organisation.

Trade marks, patents and designs

The position is the same as for volunteers.

Confidential information

The position is the same as for volunteers.

Moral rights

The position is the same as for volunteers.

When the creator or author of the material is an employee

Copyright

It's an implied term of employment that an employer owns copyright in material created by their

Trade marks, patents and designs

It's an implied term of employment that an employer owns a trade mark, patent or design

Confidential information

The relationship between an employer and an employee has been recognised by the courts

Moral rights

Employees will have moral rights in respect of any literary, dramatic, musical or artistic work which they



employees 'in the course of their employment'.

To remove uncertainties, your organisation should make it clear that it's hiring someone as an employee.

You should sign a written agreement with the person which clearly:

- defines their status as an employee
- defines the scope of their employment, and
- confirms that copyright in material created by the employee, belongs to your organisation

created by their employees 'in the course of their employment'.

To remove uncertainties, your organisation should make it clear that it's hiring someone as an employee.

Your organisation should sign a written agreement with the person which clearly:

- defines their status as an employee
- defines the scope of their employment, and
- confirms that all intellectual property, created by the employee belongs to the organisation

as a special relationship for the purpose of confidential information.

The law requires an employee to maintain the confidentiality of information disclosed in the course of, or acquired as a result of, employment, irrespective of whether there is a confidentiality provision in an employment contract.

produce for their employer, unless they expressly waive their moral rights.

When the creator or author of the material is a contractor

Copyright

Copyright created by an independent contractor will automatically be owned by the independent contractor unless there is a written agreement otherwise (in a contractor agreement or agreement for services).

The agreement should state that any copyright in material created by the contractor creates during the provision of services to the organisation becomes the copyright of the organisation when it's created. In the absence of this agreement, the contractor can assign their copyright to the organisation after its creation.

Trade marks, patents and designs

A trade mark, patent or design created by an independent contractor will be owned by an independent contractor unless there is an agreement otherwise.

While these types of IP generally rely on registration with IP Australia, registration by your organisation will not prevent a contractor from making a claim for ownership of IP.

So, to prevent a future dispute about ownership, contractor agreements should provide that any IP created by the contractor as part of their services is owned by the organisation. A contractor can also assign their ownership of IP to an organisation after its creation.

Confidential information

As with a volunteer, a contractor will only be obliged to keep certain information confidential where the information has been communicated in confidence to the contractor or the contractor has agreed to keep the information confidential.

Moral rights

As with a volunteer, a contractor will have moral rights in respect of any literary, dramatic, musical or artistic work which they produce for a party to which they are providing services, unless they expressly waive their moral rights.



Privacy

Overview

Your volunteer involving organisation is likely to collect, use, store and disclose information about individuals (for example, in the delivery of services or in gathering information about new memberships or volunteers of your organisation). This information will often be classified as ‘personal information’ under privacy laws, and may include ‘sensitive information’ and ‘health information’, which are subcategories of personal information requiring special treatment.

It's important to consider your legal obligations under privacy laws in all your dealings with personal information, including the sub-categories of sensitive information or health information.

Handling personal information in a lawful, transparent and respectful way is part of avoiding legal consequences of a data breach, (including monetary penalties) as well as managing your organisation's reputation. This means your organisation's workers, including volunteers, must understand the organisation's obligations under privacy laws and your organisation must implement policies and practices which reflect those obligations. Workers must be adequately trained to ensure your organisation's ongoing compliance under the privacy laws.

Your organisation may be subject to some or all of the privacy laws, either directly or through contract. However, even if the laws do not apply directly to your organisation, it's best practice to follow them.

If your organisation is bound by privacy laws (or follows them as a matter of best practice), your organisation should only:

- collect and store a volunteer's personal information with their consent
- use the volunteer's personal information for the purpose for which it was collected (if in doubt seek their consent)
- treat volunteer information as confidential information (as described above), and
- store volunteer information securely (and be extra careful with 'sensitive' or 'health information' of volunteers, as described below)

Volunteers should also be able to access any personal information you have about them and should have the same rights as others (such as clients whose information you collect) to have it modified or amended.



Tip

If your organisation uses the sample volunteer agreement (in part 5 of this guide), it makes it clear that your organisation will respect your volunteer's privacy, including keeping the volunteer's private information confidential.



Caution

The information included in this part of the National Volunteer Guide is of a generic nature and provides an overview of the Commonwealth and state laws on privacy. It's not intended to replace legal advice. More detailed information is available in our [National Privacy Guide](#).

Privacy laws are complex and are not always easy to apply in practice. If you have any doubts, seek legal advice.



What are the privacy laws?

In this guide, the following legislation is collectively referred to as Privacy Laws:

- **Commonwealth**
 - *Privacy Act 1988* (Cth) (**Privacy Act**) which includes the 13 Australian Privacy Principles (**APPs**)
- **Australian Capital Territory**
 - *Information Privacy Act 2014* (ACT)
 - *Health Records (Privacy and Access) Act 1997* (ACT)
- **New South Wales**
 - *Privacy and Personal Information Protection Act 1998* (NSW)
 - *Health Records and Information Privacy Act 2002* (NSW)
- **Northern Territory**
 - *Information Act 2002* (NT)
- **Queensland**
 - *Information Privacy Act 2009* (Qld)
- **South Australia**
 - has no legislative scheme for privacy law, but has an administrative direction on handling personal information that binds the public service: PC012 – Information Privacy Principles (**IPPs**) Instruction
- **Tasmania**
 - *Personal Information Protection Act 2004* (Tas)
- **Victoria**
 - *Privacy and Data Protection Act 2014* (Vic)
 - *Health Records Act 2001* (Vic)
- **Western Australia**
 - has no legislative scheme for privacy law, but some privacy principles (dealing with access to information and correction of information) are provided for in the *Freedom of Information Act 1992* (WA)

The state and territory privacy legislation applies to agencies of the state and territory governments. It doesn't generally apply to community organisations unless they agree to be bound by the legislation under a contract (for example, under a funding contract with a department), or (in some states) they are health service providers. Some state and territory government funding contracts require the organisation receiving the funding to comply with the relevant privacy principles or state or territory based privacy laws for the purpose of the funded project.



The Privacy Act

Information covered by the Privacy Act

The Privacy Act doesn't regulate or apply to all information a volunteer involving organisation gathers or deals with. To understand if your volunteer involving organisation has obligations under the Privacy Act, you need to consider whether the information you hold, or want to collect, falls into one of the categories of information described below. The Privacy Act applies to these categories of information in different ways.

► Personal information

'Personal information' is information or an opinion about an identified person, or about a person who is 'reasonably identifiable'. Personal information can be true or false, verbal, written, or photographic, and recorded or unrecorded. Examples of personal information include (but are not limited to) a person's name, address, contact details (such as telephone number or email), date of birth, gender, sexuality and race.



When will someone be 'reasonably identifiable'?

Whether someone is 'reasonably identifiable' from the information you hold depends on a few things, including:

- the nature and extent of the information
- how the information was received
- how the information will be used and who has access to it, and
- whether it's possible for you to identify the person from the resources you hold (including other information available to you)

Under the Privacy Act, personal information does not include: anonymous information, aggregated information (for example, data that reflects trends without identifying the sample), de-identified information and information about companies or other entities which does not identify individuals, information about a deceased person or information which does not reveal a person's identity.



Example

Consider a car licence plate. Most people wouldn't be able to identify the owner of a car simply from the registration number. So, to most people, knowing a car's licence plate number would not make the owner of the car 'reasonably identifiable'.

But if you work for an agency responsible for car registration, you may be able to identify the owner of the car because you have access to other information. Holding information about the car registration would make the person 'reasonably identifiable' to you from the information you hold, so the registration number would be considered personal information.

► Sensitive information

'Sensitive information' is a special category of personal information that is subject to stricter legal requirements for collection, storage use and disclosure. Under the Privacy Act, information will be considered 'sensitive information' where it's information or an opinion about a person's racial or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual preferences or practices, or criminal record.

Health information (discussed below) or genetic information or biometric information is also a form of 'sensitive information'. Identifying sensitive information is important as different requirements and thresholds apply to this kind of information under the Privacy Act.



► Health information

'Health information' is a type of sensitive personal information that includes information or opinion about a person's: physical and mental health, disability (at any time), health preferences (including future provision of health services), use of health services, bodily donations (for example, blood, organs), and genetics.

You need to establish when you are collecting, using, storing or disclosing information that is considered 'health information', as this type of information is generally afforded a higher level of protection under the Privacy Act and some state privacy legislation.



Example

Examples of 'health information' covered by the Privacy Act include:

- notes of a person's symptoms or diagnosis and treatment
- specialist reports or test results
- appointment and billing details
- dental records
- a person's healthcare identifier when it's collected to provide a health service
- prescriptions and other pharmaceutical purchases, and
- any other personal information (such as information about a person's sexuality, religion, date of birth, gender) collected to provide a health service

Is my organisation bound by the Privacy Act?

The Privacy Act applies to many categories of organisations. The most relevant are:

- organisations with annual revenue over \$3 million
- Commonwealth government agencies, and
- government contracted services providers

There are some exemptions. You can read more about whether your organisation is captured by the Privacy Act in in Not-for-profit Law's [National Privacy Guide](#).

Once you have established the information you collect, store, use or disclose that may be considered 'personal', 'sensitive' or 'health' information, you need to determine whether your organisation meets the qualifying criteria under the Privacy Act. This will depend on a number of factors which are beyond the scope of this guide. However, even if your organisation is not legally obligated to do so, it's a good idea to follow the privacy laws. The APPs set out in the Privacy Act are considered best practice.

By way of a brief summary, the APPs require an organisation to:

- Be open and transparent about its management of personal information, which includes having a culture of privacy compliance, effective privacy processes and a clearly expressed and up to date privacy policy.
- Take reasonable steps to make people aware that it is collecting 'personal', 'sensitive' or 'health' information about them.
- Notify those people about the purposes for which it is collecting the information and who it might share that information with (among other things).
- If the personal information is sensitive information, make sure consent for such collection, use or disclosure is obtained (expressly or impliedly).
- Comply with restrictions on how personal information can be used and to who it can be disclosed, including at any offshore location where the information may be disclosed.
- Give people the right to access the information held about them and to have that information corrected or modified.
- In the event of breach of personal information, follow particular steps as set out under the Notifiable Data Breaches Scheme that applies to all organisations covered by the Privacy Act.



Related Not-for-profit Law's resource

For more information on privacy go to Not-for-profit Law's [webpage on privacy](#). This page includes a guide to privacy laws along with a fact sheet on the Notifiable Data Breaches scheme which sets out an organisation's obligations if there is a data breach and how an organisation can comply with the scheme.

State and territory-based privacy laws

Australian state and territory information privacy principles (IPPs) apply to their respective government agencies (including public sector agencies, local councils, courts, state police).

The state and territory IPPs regulate how government agencies may deal with the personal information of individuals in a similar way that the APPs regulate how private entities deal with personal information.

The laws and directions containing the various state and territory IPPs are:

- **Australian Capital Territory**
 - *Information Privacy Act 2014* (ACT) sets out 13 Territory IPPs in Schedule 1
- **New South Wales**
 - *Privacy and Personal Information Protection Act 1998* (NSW) sets out 12 IPPs in Part 2, Division 1
- **Northern Territory**
 - *Information Act 2002* (NT) sets out 10 IPPs in Schedule 2
- **Queensland**
 - *Information Privacy Act 2009* (Qld) sets out 11 IPPs in Schedule 3 and 9 National Privacy Principles which apply to health agencies and their contracted service providers in Schedule 4
- **South Australia**
 - has no legislative scheme for privacy law, but has an administrative direction on handling personal information that binds the public service: Part II of the administrative instruction, PC012 – IPPs
- **Tasmania**
 - *Personal Information Protection Act 2004* (Tas) sets out 10 IPPs in Schedule 1
- **Victoria**
 - *Privacy and Data Protection Act 2014* (Vic) sets out 10 IPPs in Schedule 1
- **Western Australia**
 - has no legislative scheme for privacy law, but some privacy principles (dealing with access to information and correction of information) are provided for in the *Freedom of Information Act 1992* (WA)

Is my organisation bound by the state and territory based privacy laws?

Each set of IPPs is very similar to the APPs under the Privacy Act. While the IPPs only apply to government agencies, it is not uncommon for a funding contract with a state or territory public agency (for example,



Department of Health) to require the recipient of funding to comply with the relevant IPPs for the purpose of the funded project.

If your organisation is contractually bound to comply with any of the state or territory IPPs, your organisation should make sure:

- volunteers are appropriately trained regarding the organisation's obligations under the relevant IPPs and the funding contract, and
- your organisation complies with the requirements of the relevant IPPs when dealing with the personal information of volunteers

Health specific privacy legislation

Private health service providers are also subject to additional privacy legislation in New South Wales, Victoria and the Australian Capital Territory.

The following legislation sets out Health Privacy Principles (HPPs):

- **Australian Capital Territory**
 - *Health Records (Privacy and Access) Act 1997 (ACT)* sets out 12 HPPs in Schedule 1
- **New South Wales**
 - *Health Records and Information Privacy Act 2002 (NSW)* sets out 15 HPPs in Schedule 1.
- **Victoria**
 - *Health Record Act 2001 (Vic)* sets out 11 HPPs in Schedule 1.

This legislation generally applies to the collection, use, storage and disclosure of health information of people receiving health services from health service providers.

If your organisation is bound by any of the HPPs, it should ensure its volunteers are appropriately trained regarding the organisation's obligations under the relevant health specific privacy legislation.



Tip

Volunteer involving organisations should always check contracts with state or territory government bodies to confirm if they are obligated to comply with the IPPs or HPPs.



Note

This is a short summary of the types of the above information which are relevant to the application and obligations of the privacy laws. However, you should refer to our [National Privacy Guide](#) for more detailed information.

Obligations under Privacy Laws for organisations and their volunteers

Your organisation, its volunteers and the privacy laws

If your organisation is required to comply with Privacy Laws (or chooses to comply as a matter of best practice) and engages volunteers, it will need to take steps to make sure people in the organisation are constantly mindful of their obligations when dealing with personal information.



To embed a culture of privacy, your organisation should train their volunteers in privacy compliance and make sure they understand the importance of protecting personal information from the outset. Specifically, your organisation should ensure all volunteers are appropriately trained regarding:

- the organisation's obligations under the Privacy Act and state and territory-based laws in relation to the collection, use, disclosure, storage and a breach of that personal information and health information (as applicable or as a matter of the organisation's practice)
- how the organisation (and its volunteers) collects, uses, discloses and stores personal information as part of its activities
- the organisation's practices and requirements regarding the collection, use, disclosure, storage and breach of personal information
- the types of information, particularly sensitive and health information, which the volunteer may be required to deal with and the organisation's obligations in respect of that information
- the organisation's policies in relation to privacy, such as a privacy policy, a data breach policy and response plan and the how a person can make a complaint to the organisation in relation to their personal information
- the rights of people to their privacy, including their rights under privacy laws (where applicable or as a matter of the organisation's practices)
- how to direct people to the organisation's privacy policy (which may be required by privacy law to be as available as practically possible, such as on the organisation's website), or how to provide people with a copy of the policy. The Privacy Act requires certain information be contained within the policy including:
 - the kinds of personal information that the organisation collects and holds
 - how personal information is collected and held
 - the reasons why the organisation collects, holds, uses and discloses personal information
 - how an individual can access their information
 - the procedures for collecting, holding, using and disclosing the information, and
 - an explanation of whether personal information will be disclosed overseas



Example

HelpingHands is a large charity that provides outreach services to the elderly. HelpingHands relies on volunteers to conduct welfare checks on their clients. As part of their role, volunteers receive the personal information (such as the name and address) of clients that they then visit.

Before they begin any activities, volunteers of HelpingHands are trained about HelpingHands' obligations under the Privacy Act, including their practices and procedures, to make sure that volunteers don't breach HelpingHands' obligations.

Information about your volunteers and the Privacy Laws

Organisations that engage volunteers need to treat volunteers' personal information in the same way they are required to treat personal information of third parties under the Privacy Act (and the relevant state and territory privacy laws if the organisation is required to comply with these).



Example

Sam volunteers at a shelter for homeless people. He tells his supervisor, Laureen, that he has tested positive to COVID-19. Both Sam and Laureen must follow the latest government-issued guidance, including any exclusion or self-isolation requirements, to limit the spread.

In addition, strict privacy obligations apply when handling this personal health information, especially health information. Although these obligations are balanced against the need to provide a safe workplace, Laureen should take care to protect Sam's privacy while notifying others of the risk of transmission.

Laureen may only collect, use, store or disclose the minimum amount of Sam's personal information that is required to mitigate risks associated with COVID-19.

When Laureen notifies employees, volunteers and other people who may have had contact with Sam at the shelter of the COVID-19 risk, she should:

- only discloses information that is reasonably necessary to prevent or manage the spread of COVID-19 at the shelter
- only reveal Sam's name if this is necessary, and
- consider whether naming Sam can be restricted to a limited number of people on a need-to-know basis

Before disclosing that Sam is positive for COVID-19 to anyone, Laureen should take steps to get Sam's consent. Generally, you don't need to get consent if it is unreasonable or impractical for you to do this. Seek advice if this applies to you, as this scenario needs to be carefully managed.

Both Laureen and Sam must follow government-issued guidance on whether it is safe for Sam to return to work.



Tip

The [Office of the Privacy Commissioner has a number of useful guides and templates](#) on its website that provide practical information about complying with the Privacy Act.

These include:

- Australian Privacy Principles and Information Privacy Principles — Comparison Guide
- APP quick reference tool
- Guide to developing an APP Privacy Policy
- What to look for in developing a Privacy Policy
- Guide to securing personal information
- Handling privacy complaints
- Privacy Management Plan Template (for organisations)



Record Keeping

Overview

Organisations should keep appropriate records of their volunteer programs. In some circumstances, keeping records of your volunteers will be required by law.

Organisations have limited legal obligations to keep records relating to volunteers. While the law may not require that you keep records, it may be both necessary for your organisation to keep records relating to your volunteer for a number of other reasons including:

- internal organisational reporting (for example, human resources)
- current or anticipated disputes, or legal action
- requirements imposed by a government regulator
- requirements under insurance policies, or
- requirements under funding agreements



Tip

Check your organisation's insurance policies and funding agreements to determine whether your organisation is under a contractual obligation to retain volunteer files or certain records for a specific period of time.

Keeping records and for how long

We recommend a volunteer involving organisation keep records relating to its volunteers for at least seven years. This is consistent with some regulator requirements (for example, the Australian Charities and Not-for-profits Commission for registered charities). Also, legal action (civil claims) can generally be brought up to six years after an event to which the claim relates occurred (for example, a former volunteer alleges your organisation's negligence was the cause of the injury to the volunteer).



Note

Some legal claims have even longer limitation periods – such as claims brought in relation to harm suffered by a person when they were a child. If your organisation works with children or more vulnerable persons, volunteer records should be kept for as long as possible (ideally indefinitely). This is especially the case in light of recent child safety reforms and the removal of limitation periods for bringing actions based on child abuse (meaning they can be brought at any time – there is no six year limit).

Your organisation should check how long it's required to keep records relating to volunteers under any relevant insurance policies you have.

Your organisation should treat information that it holds about current and former volunteers with care and in accordance with obligations under the Privacy Laws, as discussed above.

Note the obligations for keeping records under the *Fair Work Act 2009* (Cth), for seven years, don't apply to volunteers. As outlined in part 2 of this guide, it's important that your organisation understand the differences between paid workers (employees and independent contractors) and unpaid workers because the law treats them differently in some instances.



Volunteer safety and record keeping

Workplace health and safety (**WHS**) laws (sometimes referred to as occupational health and safety (**OHS**) laws) require community organisations to keep certain records in relation to workers, including volunteers. See part 3 of this guide which deals with volunteer safety, including what WHS or OHS laws apply to your organisation. As we have stated in that part of the guide, even if these laws don't apply, your organisation has similar obligations arising under the common law (for example, in relation to negligence). Keeping records will help you show you are meeting these obligations.

Harmonised WHS laws (QLD, NSW, TAS, ACT, SA, NT and WA)

Most states and territories (Queensland, New South Wales, Tasmania, the ACT, South Australia and the Northern Territory) have adopted the model WHS laws. WA is in the process of adopting the model WHS laws.

In these states and territories, organisations to which the legislation applies must notify the relevant regulator immediately after the organisation becomes aware of the occurrence of an incident that is considered a 'notifiable incident'. A notifiable incident is the death of a person, a serious injury or illness of a person or a dangerous incident. The organisation must keep a record of each notifiable incident that has occurred for at least five years from the day that notice of the incident. A failure to keep these records may lead to individuals incurring fines of up to \$5,000 and organisations incurring fines up to \$25,000.

The laws also require the keeping of a 'Register of Injuries' to workers where any workplace incidents or injuries should be recorded no matter how serious they appear to be at the time. There is a penalty for failing to keep a 'Register of Injuries'.

Under the model WHS laws, volunteers are included in the definition of 'workers'.

Victoria and Western Australia OHS/WHS laws

► Victoria

The OHS law is in many respects reasonably consistent with the model WHS law. An organisation that is bound by the OHS laws must, so far as is reasonably practicable, keep information and records relating to the health and safety of its workers. There are penalties for failing to keep these records. The organisation is required to notify WorkSafe, the Victorian regulator, of certain incidents and must keep a copy of the record for at least five years. There are also requirements for records under the OHS laws in regard to asbestos, lead, carcinogenic substances and other hazardous substances.

► Western Australia



Caution

Western Australia is in the process of adopting the Model Laws.

The *Work Health and Safety Act 2020 (WA)* received assent in November 2020, but is not yet in force. Once the *Work Health and Safety Regulations* are finalised (expected to occur in 2021) the new Western Australian Act will come into force.

The new *Work Health and Safety Act 2020* will replace the current *Occupational Safety and Health Act 1984*, and harmonise Western Australian law with the rest of the states and territories, (with the exception of Victoria).

Your organisation should be aware of the upcoming changes to make sure you comply with the new laws when they begin. Until then, the current *Occupational Safety and Health Act 1984* applies in Western Australia.

The Western Australian occupational safety and health laws don't currently place an obligation on employers to keep records of safety incidents. However, there are requirements to keep records in relation to asbestos, lead, carcinogenic substances and other hazardous substances.



Commonwealth and state regulator record keeping

The Australian Charities and Not-for-profits Commission

The Australian Charities and Not-for-profits Commission (**ACNC**) requests information relating to a charity's volunteers in its Annual Information Statement, which most charities must submit annually. The requested information is currently limited to the number of volunteers a charity engages in its activities. For this reason, a volunteer involving organisation that is a registered charity should retain accurate records about its volunteers so that it can report accurately.

Under the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) your organisation is required to keep its financial and operational records for seven years.



Related resources

The ACNC has detailed information on its website in relation to [record keeping for charities](#).

Not-for-profit Law's [Guide to running a charitable CLG](#) also has information about record keeping charities' records.

The Australian Taxation Office

The Australian Taxation Office (**ATO**) requires that records be kept for five years. Many of the documents relevant to tax affairs will also be kept for the ACNC's record-keeping requirements, including an organisation's governing documents, financial reports, cash books, tax invoices, employee records, bank records, grant documentation and contracts.

Clear records should be kept if payments are made to volunteers, such as reimbursements. Records of payments will also be important if a volunteer changes their status with an organisation and becomes an employee or independent contractor of the organisation. For more information, refer to part 2 of this guide.

State and territory incorporation regulators

All community organisations incorporated under state or territory law will need to keep documents and records. Requirements to keep certain documents and records may be set out in your organisation's rules, as well as in the relevant incorporation legislation. While incorporated association laws do not explicitly require you to keep specific records about volunteers, in some circumstances the organisation may, and be legally required to, because of the position held by the volunteer (for example, if the management committee are all volunteers).



Related Not-for-profit Law resource

Not-for-profit Law has [fact sheets on Keeping and accessing documents, records and registers for each State and Territory](#).

Other incorporation regulators (ASIC and ORIC)

If your volunteer involving organisation is incorporated under a Federal law, such as a company limited by guarantee under the *Corporations Act 2001* (Cth) or an Indigenous organisation incorporated under the *Corporations (Australian and Torres State Islander) Act 2006* (Cth), it will need to keep financial documents and records for seven years. Neither of these laws explicitly require the organisation to keep specific records of its volunteers, although in some cases records about volunteers will be kept by virtue of the position held by the volunteer (for example, where the board of directors are all volunteers).



Fundraising regulators

Fundraisers conducting regulated fundraising activities must meet certain obligations under the state and the ACT fundraising laws. These are usually the same regulators as the state and territory incorporation regulators (see above).

These laws differ in each state and territory (except the Northern Territory which does not have any specific fundraising law). If your organisation is fundraising in several states or territories, you will need to consider the laws in each of those places and whether they apply. Fundraising laws are complex. You may need to seek legal advice in determining which laws apply to your volunteer involving organisation.

In some circumstances the fundraising laws require you to make and keep records of individuals involved in a fundraising activity, including as a 'collector'. These include:

- **Queensland:** where a community organisation engages in door-to-door or street collections, each collector must be issued with a distinctive armlet or badge. A record of each collector issued with an armlet or badge must be kept.
- **Victoria:** the fundraising law requires that the name and address of each person who participates in the appeal as a supervisor or manager be recorded – in your organisation this person may be a volunteer. Collectors in public places must wear a visible identification badge which shows whether they are a paid collector or a volunteer, which may impose additional record keeping obligations on organisations who have to issue these badges.
- **New South Wales:** where the authority holder engages people to participate in a fundraising appeal (paid or volunteers), a register of participants must be maintained.
- **Western Australia:** an organisation involved in street collections (that has the relevant permit) is obliged to consecutively number all of the collection boxes and keep a record of which boxes are issued to each collector - in your organisation this person may be a volunteer.

In the other states (South Australia, the ACT and Tasmania) the fundraising laws do not explicitly require keeping record of people involved in a fundraising activity (for example, a collector). However, in the ACT it is within the power of the regulator (AccessCanberra) to require information it considers necessary to decide whether the licensee has complied with the relevant legislation. In South Australia it's in the Minister's power or the power of an inspector to request certain records connected to a fundraising license.

Also note in Victoria and New South Wales – there are additional reasons why you should keep records of your volunteers. In these states there are exemptions from the need to get permission (to register as a fundraiser in Victoria and to obtain a licence in New South Wales) where only volunteers are used to collect funds and only a certain amount of money is collected within the financial year.

While your organisation may not be legally obliged to make and keep records of each person involved in a fundraising activity (for example, a collector), such as their name and address and their identifying number (if any), as outlined above, there are many reasons why it's a good idea to keep records (for example it will help you to demonstrate how you've managed risk, and met your governance obligations). Records of volunteers involved in fundraising should be kept and maintained with the other records of the organisation and with the requirements (if any) set out in the relevant fundraising legislation and, where applicable, other relevant laws (including privacy laws, as discussed above).



Caution

Just because your organisation may be exempt from a requirement to seek permission from the state regulator to fundraise in that state, it doesn't mean your organisation will be exempt in the other states and the ACT. If you are conducting fundraising activities in other states or the ACT you should check with the local regulator, and if required seek legal advice.



Related Not-for-profit Law resources

For more information on fundraising Laws in Australia see our [fundraising page](#) and for more information on running fundraising events, see our [page on events](#).



National standards for volunteer involvement

[Volunteering Australia's National Standards for Volunteer Involvement](#) have a number of standards relevant to the matters discussed in this part of the guide. If your organisation complies with its legal obligations as set out in this part (or if not obligated, but does so as a matter of best practice), it will help make sure your organisation meets these standards (and can provide evidence that it does so).

Standard 8: Quality Management and Continuous Improvement states that effective volunteer involvement results from a system of good practice, review and continuous improvement.

A criteria for meeting this standard is 'policies and procedures are implemented to effectively guide all aspects of volunteer involvement', with evidence of meeting this standard being that volunteers are made aware of and understand an organisation's policies and procedures.

Standard 1: Leadership and Management states that the governing body and senior employees lead and promote a positive culture towards volunteering and implement effective management systems to support volunteer involvement.

Criteria for meeting Standard 1 includes:

- 1.2 'Policies and Procedures applying to volunteers are communicated, understood, and implemented by all staff across the organisation'. Evidence of meeting this includes regular monitoring of compliance with organisations volunteer policies and procedures.
- 1.4 'Volunteer records are maintained'. Evidence of meeting this includes:
 - identifying the required information to be collected from volunteers
 - information is documented and secured, and
 - the organisation has documented and implemented processes that comply with privacy legislation for securely managing volunteer personal and confidential information

Standard 2: Commitment to Volunteer Involvement states that commitment to volunteer involvement is set out through vision, planning and resourcing and supports the organisations strategic vision.

Criteria for meeting Standard 2 includes:

- 2.1 'The organisation publicly declares its intent, purpose and commitment to involving volunteers'. Evidence of meeting this includes that the organisation's commitment to volunteer involvement complies with legislation, industry standards, guidelines and codes of practice.



Summary: considerations for organisational issues that are applicable to volunteers

Intellectual property

- The forms of IP are all different in what they protect, how they are protected and enforced and exploited, and the duration of the protection.
- Copyright material created by your volunteer is likely to be owned by the volunteer unless you have a specific agreement otherwise.
- Moral rights are rights of a creator to be attributed as the author of a work, and to have their works treated with respect. This means that even if a volunteer assigns their copyright, they must also waive their moral rights in writing.
- Your organisation can protect its trade marks, designs and patents by registering them with IP Australia.
- Confidential information creates an obligation in law to maintain the confidentiality of information when it's disclosed to someone on a condition of confidentiality. The obligation does not extend to your volunteers in the same way as your employees (if any).

Privacy

- Your organisation may be subject to some or all of the Privacy Laws.
- Even if it's not, it's a good idea to follow them as a matter of best practice in relation to the personal information of your volunteers and the personal information of others (such as clients, other volunteers) that volunteers may collect, store, use, disclose and manage for your organisation.
- Only collect and store the volunteer's personal information with their consent, only use or disclose it for the purpose it was collected, treat it as confidential information, store it securely and be extra careful with 'sensitive' and 'health' information of volunteers.

Record keeping

- It's a good idea to keep records of your volunteers, even if your organisation doesn't have obligations at law that require you to keep these records.
- Registered charities are required to provide annual information on the number of their volunteers, and some fundraising laws require you to keep details of those involved in fundraising activity.
- Other reasons to keep records include your organisation's own reporting, requirements under insurance policies (check them!) or potential future legal action, for example, by a volunteer alleging your organisation failed to keep them safe while volunteering for your organisation.
- We recommend you keep records of your volunteers for at least seven years and that they be kept and maintained with the organisation's other records.



Resources

Not-for-profit Law resources

Not-for-profit Law has developed a National Volunteer Guide, which sets out in detail the key legal issues affecting volunteer involving organisations. The guide is in six parts and includes a number of templates and sample policy documents, which should be read together. See [Not-for-profit Law's webpage on volunteering](#):

- Part 2: Volunteer, employee or independent contractor
- Part 3: Volunteer safety
- Part 4: Volunteers and unlawful workplace behaviour
- Part 5: Recruiting, inducting, managing performance and ending the volunteer relationship
- Part 6: Organisational issues applicable to volunteers

Not-for-profit Law has also developed a number of free webinars for volunteer involving organisations, which can also be accessed from [Not-for-profit Law's webpage on volunteering](#)

▶ [Intellectual property](#)

Not-for-profit Law's Intellectual Property Guide can help your organisation understand the different types of intellectual property, how it is created, its ownership and how to protect it.

▶ [National Privacy Guide](#)

Not-for-profit Law's National Privacy Guide can help your organisation understand its obligations under the Privacy Laws, including whether it is bound by the Privacy Law and how it can ensure it complies.

▶ [National WHS guide](#)

Not-for-profit Law's National WHS Guide can help your organisation understand its obligations under the occupational health and safety laws, whether it is bound by these laws and how it can ensure it complies. A separate Guide also exists for Victorian organisations as their laws differs slightly.

▶ [Keeping and accessing documents, records and registers](#)

Not-for-profit Law has fact sheets on keeping and accessing documents, records and registers.

▶ [Record keeping for charities](#)

Not-for-profit Law has a fact sheet relating to the record keeping required of charities registered by the Australian Charities and Not-for-profits Commission (ACNC).

▶ [Fundraising laws](#)

Not-for-profit has comprehensive guides including: Applications to Fundraise, Fundraising Laws in Australia, Guides' to Fundraising Laws in each State and Territory and auditing of fundraising accounts.

Incorporation and other related regulators

- ▶ Australian Capital Territory, [Access Canberra](#)
- ▶ New South Wales, [Fair Trading](#)
- ▶ Northern Territory, [Licensing NT](#)
- ▶ Queensland, [Office of Fair Trading](#)



- ▶ South Australia, [Consumer and Business Services](#)
- ▶ Tasmania, Consumer, [Building and Occupational Services](#)
- ▶ Victoria, [Consumer Affairs](#)
- ▶ Western Australia, [Consumer Protection](#)
- ▶ [Australian Charities and Not-for-profits Commission](#)
- ▶ [Australian Taxation Office](#)
- ▶ [Office of the Registrar of Indigenous Corporations](#)

Other resources on privacy

- ▶ [Office of the Australian Information Commissioner \(OAIC\)](#)
- ▶ [Office of the Information Commissioner, Queensland](#)
- ▶ [Commissioner of Privacy and Data Protection, Victoria](#)
- ▶ [The Information and Privacy Commission, New South Wales](#)
- ▶ [Office of the Information Commissioner, Northern Territory](#)
- ▶ [ACT Justice and Community Safety Directorate](#)
- ▶ [ACT Health Services Commissioner](#) handles health record privacy complaints
- ▶ [Office of the Information Commissioner \(Western Australia\)](#)

Other resources on intellectual property

- ▶ [Intellectual Property Australia](#)
- ▶ [Australian Copyright Council](#)
- ▶ [Arts Law Centre of Australia](#)

Privacy legislation

- ▶ Commonwealth law: [Privacy Act 1988 \(Cth\)](#)
- ▶ Australian Capital Territory law: [Information Privacy Act 2014 \(ACT\)](#), [Health Records \(Privacy and Access\) Act 1997 \(ACT\)](#)
- ▶ New South Wales law: [Privacy and Personal Information Protection Act 1998 \(NSW\)](#), [Health Records and Information Privacy Act 2002 \(NSW\)](#)
- ▶ Northern Territory law: [Information Act 2002 \(NT\)](#)
- ▶ Queensland law: [Information Privacy Act 2009 \(Qld\)](#)
- ▶ Tasmanian law: [Personal Information Protection Act 2004 \(Tas\)](#)
- ▶ Victorian law: [Privacy and Data Protection Act 2014 \(Vic\)](#), [Health Records Act 2001 \(Vic\)](#)
- ▶ Western Australia: [Freedom of Information Act 1992 \(WA\)](#)

Intellectual Property legislation

- ▶ [Copyright Act 1968 \(Cth\)](#)
- ▶ [Patents Act 1990 \(Cth\)](#)
- ▶ [Designs Act 2003 \(Cth\)](#)
- ▶ [Trade Marks Act 1995 \(Cth\)](#)



Volunteering Australia resources

▶ [Volunteering Australia](#)

Volunteering Australia has published a suite of resources for volunteer managers including information on insurance and complaint handling.

▶ [National Standards for Volunteer Involvement](#)

Volunteering Australia's National Standards for Volunteer Involvement reflect best practice in volunteer management in Australia's current work environment.

▶ [Definition of volunteering](#)

Volunteering Australia's definition of volunteering has a set of explanatory notes, a detailed Issues Paper that provides background and context, and a set of FAQs around it.

State and territory peak bodies for volunteering

State and Territory peak bodies facilitate opportunities for people seeking to volunteer, and support volunteer involving organisations. These bodies are:

- ▶ [Volunteering and Contact ACT](#)
- ▶ [The Centre for Volunteering \(NSW\)](#)
- ▶ [Volunteering Queensland](#)
- ▶ [Volunteering SA&NT](#)
- ▶ [Volunteering Tasmania](#)
- ▶ [Volunteering Victoria](#)
- ▶ [Volunteering WA](#)

