

Commissioner's Policy Statement: Choosing to revoke

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

Policy Statement

1. This Commissioner's Policy Statement gives guidance on the circumstances in which registered charities can request to have their registration revoked and cease to be regulated by the ACNC, as well as when registered charities can request revocation of registration as a subtype of charity (under ss 35-5(1) and 35-10(1)(e) ACNC Act).

Asking to revoke registration

2. Under the ACNC Act, a charity can ask the Commissioner to revoke its registration (or subtype of registration) using the [approved form](#) (s 35-10(1)(e)). A charity can request this at any time and its registration (and the tax concessions that is associated with its registration status) is revoked from the day the Commissioner makes the decision about revoking registration, or if specified in the notice another date.
3. However, this provision is not automatic and gives the Commissioner discretion to decide whether or not to allow the charity to revoke its registration.
4. The ACNC Act lists factors that the Commissioner must consider before revoking a charity's registration (including where a charity requests revocation) (s 35-10(2), see also principles below).
5. As well, the ACNC will take into account the object of maintaining, protecting and enhancing public trust and confidence in Australian charities; the need for transparency and accountability to the public; the benefits gained from providing information to the public; and the principles of regulatory necessity, reflecting risk, and proportionate regulation (s 15-10).

Obligation to lodge Annual Information Statement and annual financial reports

6. Under s 60-5 of the ACNC Act, all registered charities must lodge an Annual Information Statement with the ACNC by the end of 6 months after the end of each financial year (1 July – 30 June) or, where approved, after the end of each substituted accounting period (s 60-85). Medium and large charities must also lodge a financial report for the financial year, together with any auditor's or reviewer's report (ss 60-10, 60-20 and 60-25).

7. Where the Commissioner revokes the registration of a charity, the charity must still lodge an Annual Information Statement (and annual financial report if applicable) for each reporting period that it remained registered (financial year or substituted accounting period, including any part of that period), **unless** its registration was revoked before the statement is required. That is, if a charity has a financial year end of 30 June but its registration is revoked before 31 December of that year, it will **not be required** to submit an Annual Information Statement (or annual financial report if applicable). This is the general rule except if there are any compliance concerns or risks (see paragraph 9).
8. On the other hand, if a charity's registration is revoked after the expiry of 6 months from the end of its reporting period, it must lodge an Annual Information Statement (and annual financial report if applicable) for that period, **unless** it can provide good reasons why this is not fair and reasonable. In deciding whether or not to exempt a revoked charity from having to lodge an Annual Information Statement (and annual financial report if applicable), the ACNC will balance the need to maintain the integrity of the Register and the individual charity's extenuating circumstances, in line with [the ACNC's regulatory approach](#).
9. However, if there are any compliance concerns or significant risks involved (see principles 3 and 5 below), the ACNC may refuse to revoke the charity's registration until it has lodged an Annual Information Statement (and financial report if applicable) or otherwise provided any information requested that will allow the ACNC to be satisfied that charitable assets and beneficiaries are appropriately protected. In line with this policy, the ACNC will balance the need for information to effectively carry out compliance activities with the need to minimise unnecessary compliance burden.

Principles

10. These principles apply when the ACNC is considering a registered charity's request to revoke registration under s 35-10(1)(e).

Principle 1: Reasons to be given for request

11. Under the ACNC Act, registration of charities is generally in the public interest. Registration promotes transparency and accountability, provides the public with information about the activities and operations of charities, and enables the ACNC to ensure that charities comply with the law, including requirements that charities act for charitable purposes and for the public benefit. The general public interest in the registration of charities means that charities that wish to cancel their registration must provide reasons for doing so.

Principle 2: Requests allowed where this maintains integrity of ACNC Register

12. Many charities may wish to cancel their registration because they have already wound up or merged with another charity. In these cases, revocation will be allowed as this will maintain the integrity of the ACNC Register.
13. If a charity asks to revoke registration on the basis that it is planning to wind-up in the future, we will generally allow this. However we may ask charities to provide basic financial information and to confirm that the assets of the charity will be distributed consistent with charitable purpose.

14. Another example of a good reason is that the charity is no longer entitled to registration. For example, the charity may now have non-charitable purposes or have converted to a for-profit structure since it was originally registered. In this case, the ACNC requires information about when it ceased to be entitled to registration and the use of the charity's assets since that time.
15. If a charity is no longer involved in activities that entitle it to be a health promotion charity or public benevolent institution, the ACNC will allow revocation as that subtype of charity.

Principle 3: Requests to be refused in cases where non-compliance is a concern or risk

16. The ACNC will generally refuse requests to revoke registration where:
 - the ACNC is currently conducting any compliance or enforcement activity in relation to the charity or
 - there is currently compliance or enforcement activity by another regulator in which the ACNC may have a future interest.
17. The ACNC will refuse these requests where it would prejudice our ability to investigate concerns about a charity. However, the charity can apply to revoke registration at a later date.

Principle 4: Reasons for request to be discussed

18. The ACNC will generally contact charities asking to revoke registration to discuss the reasons for the request. The ACNC will explain the consequences of revocation, including its effect on tax concessions, to ensure that charities are making fully informed decisions. If there are specific concerns that can be addressed in other ways, the ACNC will explain these alternatives to the charity.

Principle 5: Requests allowed unless significant risk involved in revocation

19. The ACNC will generally allow charities to revoke voluntarily unless it considers there is a significant risk to the public involved. This reflects the voluntary nature of the registration system, as well as the principles of regulatory necessity, reflecting risk, and the principle of proportionate regulation.
20. In deciding whether to allow a charity to revoke its registration the ACNC is required to consider the factors listed in s 35-10(2), including:
 - the desirability of ensuring contributions to charities are applied consistently with the charity's not-for-profit nature and purpose
 - the extent to which the charity's actions may harm public trust and confidence in the not for profit sector, and
 - the welfare of those receiving direct benefits from the charity.
21. If the ACNC considers there is a significant risk, it will generally discuss ways of addressing those risks with the charity to enable revocation, where this is appropriate

22. If the ACNC believes there is a significant risk in revoking a charity's registration that cannot be addressed adequately, it will give the charity the opportunity to put its case before we decide to refuse the application.
23. If the ACNC continues to believe there is a significant risk, we will provide the applicant with written reasons for its decision and give the charity an opportunity to discuss those reasons. The charity can object to the decision using the reviews and appeals procedure set out in Part 7-2 of the ACNC Act (s 35-20) and according to our [Reviews and appeals policy](#).
24. The charity can choose to apply to revoke its registration again if its circumstances have changed.

References

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

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

[Annual Information Statement policy](#)

[Review and appeals policy](#)

[Form 5A: Application to revoke registration as a charity](#)

Version	Date of effect	Brief summary of change
Version 1 - Initial policy	03/12/12	Initial policy endorsed by the Commissioner on 06/12/12
Version 2 - First revision	04/08/14	Revision to remove transitional content and to clarify obligation to submit Annual Information Statement