

Operational Procedure: Proof of Identity Procedure

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

Procedure

1. The aim of this Operational Procedure is to achieve a balance between:
 - a. protecting the confidentiality of information required by the *Privacy Act 1988* (Cth) (Privacy Act);
 - b. upholding the secrecy provisions required by Part 7-1 of the *Australian Charities and Not-for-profits Commission (ACNC) Act 2012* (Cth) (ACNC Act)); and
 - c. the importance of the provision of information in supporting and sustaining the Australian not-for-profit sector (ACNC Act s 15-5(1)(b)).
2. This Operational Procedure explains:
 - a. when a Proof of Identity (POI) check is required; and
 - b. the procedure for conducting POI checks.
3. This Operational Procedure applies to all external ACNC communications, both verbal and written.

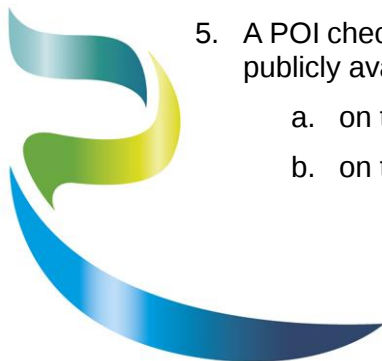
Is a POI check required?

General information

4. A POI check is not required where the information requested is of a general nature and is not specific to a person or a particular charity. Examples include information:
 - a. available on our website;
 - b. about the general application of legislation;
 - c. about another agency or government department, including web addresses and contact details (Justice Connect, the Australian Taxation Office, the Australian Securities and Investment Commission, state revenue office etc.).

Publicly available information

5. A POI check is not required where the information requested has lawfully been made publicly available. Examples include information:
 - a. on the ACNC Register;
 - b. on the Australian Business Register



6. ACNC officers can provide publicly available information without conducting POI checks.
7. ACNC officers must retrieve the publicly available information from the public source. The information must never be retrieved from a non-public source such as the ACNC records.

Personal and charity information not publicly available

8. A POI check is required where the information is about a person and is not publicly available ('personal information').
9. A POI check is required where the information is about a charity and is not publicly available ('charity information').

Conducting POI checks

Step 1: Is the person seeking personal information or charity information?

10. ACNC officers must first determine whether the person is requesting personal information or charity information.
11. According to the Privacy Act, 'personal information' means information or opinions about an identified individual, or an individual who is reasonably identifiable (whether the information or opinion is true or not, and whether it is recorded in a material form or not). The words 'individual' and 'person' are interchangeable.
12. ACNC officers can only disclose personal information to the person to whom that information relates. This means that if the information is about a person then the information must only be disclosed to that particular person or with that particular person's consent.
13. ACNC officers must verify that the person to whom the information relates is who they claim to be by conducting a POI check before releasing personal information.
14. 'Charity information' means any information that the ACNC holds about a charity which is not published on the ACNC Charity Register.
15. Note that most charity information will also be 'protected information' under the secrecy provisions of the ACNC Act. ACNC officers may face significant penalties (up to 2 years' imprisonment) if protected information is disclosed to an unauthorised person. Please refer to the [Operational procedure - Protected Information Procedure](#) for more information.
16. ACNC officers can disclose charity information to:
 - a. a responsible person of the charity;
 - b. an agent for the charity (for example a tax agent or a lawyer);
 - c. a person who is authorised to act on behalf of the charity (for example a CEO, CFO or company secretary, or an employee who is authorised to speak to the ACNC on behalf of the charity).
17. ACNC officers must confirm that the person is a responsible person, an agent or person authorised to act on behalf of the charity by conducting a POI check before releasing charity information.

Third parties

18. ACNC officers may speak to third parties with the original party's consent. A third party is any person who is not authorised to act on behalf of the charity, for example a bank officer.
19. When receiving an enquiry from a third party, ACNC officers must
 - a. verify the identity of the person that the information is about;
 - b. obtain that person's consent and record this contact in the ACNC records; and
 - c. if consent is obtained, disclose that person's information to the third party.

Step 2: Notify of rights under the Privacy Act

20. As verifying identity requires collecting personal information, ACNC officers are required to notify the person of the matters listed in Australian Privacy Principle 5 (the Privacy Notice) prior to asking any POI questions. It is sufficient to provide the person with the option of hearing the Privacy Notice.
21. Where the person elects to hear the privacy notice, the following must be read out:

Under the Commonwealth Privacy Act 1988 and the secrecy provisions of the Commonwealth Australian Charities and Not-for-profits Act 2012, we are required to verify your identity before we can discuss or release any confidential information about you or your charity. If we cannot verify your identity, then we cannot provide you with or discuss this information with you.

The ACNC's privacy policy is available on our website, www.acnc.gov.au. The policy contains important information about how you can access and request correction of information we hold about you, how you may complain about a breach of the Australian Privacy Principles and how the ACNC will deal with any privacy complaints.

If you have any questions you can contact us by email at advice@acnc.gov.au, by phoning 13 22 62 or by writing to us at GPO Box 5108, Melbourne, Victoria, 3001.

22. Callers to the 13 22 62 number can elect to hear the Privacy Notice prior to their call being answered. These callers do not need to also be provided with the option to hear the Privacy Notice.

Step 3: Conduct POI checks

23. In some cases, it can be difficult to ascertain whether a person is authorised to act on behalf of a charity. ACNC officers should work through the POI and security check procedure steps below and if unsure, seek assistance from a manager before releasing information.

Inbound contact – match 3 details

24. To prove their identity, the person must provide information that matches three details held in the ACNC records that are not publicly available.
25. Examples of information held in the ACNC records that may be used to verify a person's identity include:
 - a. Full name (if not published on the ACNC Register)
 - b. Personal address
 - c. Personal phone number
 - d. Personal email address
26. For charity information, the following details can also be used to confirm a person's authority to act on behalf of a charity. These are known internally at the ACNC as 'security questions'.
 - a. date and title of an ACNC-generated notice or letter
 - b. correspondence reference number of an ACNC-generated letter
 - c. date on which a complaint or enquiry was made.
27. If the person cannot provide three details to prove their identity, then the person fails the POI check and the requested information cannot be disclosed to them.
28. If the person fails the POI check but the request is for charity information (not personal information), the information can be sent to the charity's address for service (AFS).
29. Where a person is seeking to update information or make lower level enquiries regarding charity information ACNC officers can ask two security questions about the charity that only someone closely associated with the charity would know. For example, whether the ACNC has received an approved form.

Outbound contact – match 2 details

30. Where an ACNC officer makes an outbound call, the person receiving the call is required to match two details held in the ACNC records that are not publicly available.
31. Where an ACNC officer is responding to correspondence requesting charity information, the ACNC officer must check whether the address is listed in the ACNC records for the relevant charity. If the request is not from an address listed in the ACNC records, the ACNC officer must:
 1. send the response to the AFS, or
 2. respond to advise that the ACNC cannot release the information to an address not listed in the ACNC records, and for the person to contact the ACNC to complete a POI check.
32. Where an ACNC officer is responding to correspondence from a person requesting their own personal information, the address used must be listed in the ACNC records against that person's record. If the request is not from the person's address as listed in the ACNC records, the ACNC officer must respond to advise that the ACNC cannot release the information to an address not listed in the ACNC records, and for the person to contact the ACNC to complete a POI check.

Manager's Discretion

33. Given the nature of the charity sector, the ACNC should adopt a common-sense approach to dealing with enquiries. For example, many Parents and Friends (P&F) Associations will change responsible persons every year and so enquiries will often be made by people who are not yet responsible persons or who are unable to pass the POI check. In such instances, manager's discretion may be exercised.
34. For the purposes of this Operational Procedure, 'manager's discretion' can only be exercised by an ACNC employee classified at APS6 or above.

References

Australian Charities and Not-for-profits Commission Act 2012 (Cth)

Privacy Act 1988 (Cth)

Version	Date of effect	Brief summary of change
Version 1 - Initial policy	20/11/2012	Initial policy endorsed by ACNC Commissioner
Version 2	02/12/2014	Updated for clarity
Version 3	16/11/2017	Updated for clarity