

Charity Management Procedure

Version 1 - Approved 6 November 2023

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Purpose

This procedure describes the requirements of all charities established by the University, or for which the University is Trustee and how they are managed.

Applicable governance instruments

Instrument	Section	Principles
<i>Entities and Affiliated Organisations Policy</i>	1 Controlled and uncontrolled entities	1.1- 1.2 1.4- 1.6
<i>Australian Charities and Not-for-profits Commission Act 2012 (Cth)</i>		
<i>The Charities Act 2013 (Cth)</i>		

Procedure

1. Background

A charity is an organisation established with a charitable purpose. 'Charitable purpose' has a special legal meaning, developed over the years by the courts and parliament. The courts have recognised many different charitable purposes, and as society changes new charitable purposes are accepted. *The Charities Act 2013* (Cth) lists the acceptable charitable purposes.

The University is a registered charity as are a number of its subsidiary companies (controlled entities) and all charitable trusts for which the University is trustee (noting that charitable trusts are managed by the Advancement Office).

Under the Act, charities must comply with the Australian Charities and Not-for-profits Commission (ACNC) Governance Standards and the ACNC External Conduct Standards if applicable which require a charity to remain charitable, operate lawfully, and be run in an accountable and responsible way.

This procedure applies to all charities established by the University, or any charitable trusts for which the University is appointed trustee.

2. Creating a new charity

- 2.1. As the parent entity, University Council must approve all new charities, other than those established under the *Charitable Trusts Procedure*.
- 2.2. Charities, other than those established under the *Charitable Trusts Procedure*, will be controlled entities of the University that must be established or acquired in accordance with the *Controlled Entities Establishment and Reporting Procedure* and the principles of the University's *Entities and Affiliated Organisations Policy*.
- 2.3. The University Secretary, the Director Governance and Compliance, Legal Services, and the Associate Director – External Reporting & Compliance, Financial Services must be advised of all intentions to seek registration of a University controlled entity as a charity with the ACNC.
- 2.4. The governing documents for a charity must be prepared and endorsed by Legal Services in accordance with the *Controlled Entities Establishment and Reporting Procedure*, except as set out in the *Charitable Trusts Procedure* (Section 3.1). A charity's governing documents must record the charitable purpose and its not-for profit status with copies to be provided to Governance.
- 2.5. Financial Services must obtain and maintain an Australian Business Number (ABN) for each charity.
- 2.6. Governance and Compliance will complete the application for registration of each charity with the Australian Charities and Not-for-profits Commission (ACNC), in consultation with Legal Services, Financial Services, and the Company Secretary or Director Advancement if applicable, including lodgement of the charity's governing documents.
- 2.7. The primary contact for an ACNC application will be recorded as the entity's company secretary or for charitable trusts, the Director Advancement, and the address for service will be Financial Services (recorded as Financial.Reporting@utas.edu.au).
- 2.8. The Company Secretary of each entity, the University Secretary, and Financial Services are to manage their University or entity staff access to the ACNC system in a timely manner.
- 2.9. If not applied for in the original application for registration, Financial Services will apply to the Australian Tax Office for income tax exemption for a charity.
- 2.10. Legal Services will notify Governance, the entity's company secretary and management (or director Advancement for charitable trusts) and Financial Services of the status of the ACNC application.

3. Accountability and reporting

- 3.1. The Responsible Persons of a University charity are the charitable entity's board directors (or equivalent). For the University and charitable trusts of the University, University Council members are the Responsible Persons.
- 3.2. The Responsible Persons are accountable for ensuring the entity or trust complies with the ACNC Standards.
- 3.3. For Charitable Trusts, monitoring and reporting about compliance with the ACNC Standards will occur as per the requirements of the *Charitable Trusts Procedure*.
- 3.4. The company secretaries of each entity and the University Secretary of University Council will monitor compliance with the ACNC Standards and report to the Responsible Persons:
 - a) on an annual basis
 - b) as required by the Responsible Persons
 - c) where a non-compliance or contravention is identified (see Section 5.1).
- 3.5. Financial Services will prepare the Annual Information Statement (AIS) to the ACNC for each charity based on the entity's financial statements consistent with the ACNC's requirements. This will be provided to the board of each entity or University Council for approval prior to lodgement with the ACNC. Once approved, Financial Services will lodge each AIS with the ACNC, with a copy of the approved audited financial statements (if required).
- 3.6. The Responsible Persons will be asked to make an annual declaration that the entity is fully compliant with the ACNC Standards at the time of approval of the AIS.

4. Notification of changes to registration

- 4.1. The company secretary of an entity or the University Secretary of the University, must notify the ACNC of any of the following circumstances in relation to their charity as soon as possible but within 28 days:
 - a) change to responsible persons (ie change to Council or Board Member)
 - b) its name has changed
 - c) its address for service has changed
 - d) an entity has ceased to be, or has become, a responsible entity of the registered entity
 - e) its governing rules have changed
- 4.2. Any changes 4.1 (a) to (c) that pertain to the University of Tasmania's ACNC registration need to be also made by the University Secretary for each Charitable Trust for which the University of Tasmania is trustee.
- 4.3. The company secretary and University Secretary will notify Governance to enable update of the Charities Register as appropriate in response to changes at 4.1.
- 4.4. Financial Services, as the addressee for service for each charity, will ensure all notices pertaining to a charity are notified to Governance and actioned by the relevant persons within the University.

5. Contraventions and non-compliances

- 5.1. Where it becomes apparent that a University charity is operating in a way that has contravened a provision of the ACNC, including non-compliance with a governance or external conduct standard, it must take immediate steps to rectify the non-compliance and notify, in due course or immediately if significant under Section 5.2, the Responsible Persons and the Director Governance

and Compliance. The Director Governance and Compliance will report the non-compliance through to Audit and Risk Committee and then to University Council.

- 5.2. If that contravention or non-compliance is significant such that it would result in the charity no longer being entitled to be registered, the Vice-Chancellor, Audit and Risk Committee and University Council must be advised and the Director Governance and Compliance will notify the ACNC on behalf of the Responsible Persons as soon as possible but within 28 days per the requirements of the ACNC Act.

6. Revoking registration

- 6.1. Where charity registration of an entity is no longer required, approval to seek voluntary revocation from the ACNC must first be requested from University Council.
- 6.2. Winding up of an entity is approved by Council in accordance with the *Controlled Entities and Establishment and Reporting Procedure*.
- 6.3. Where Council has approved seeking revocation of registration as a charity, or winding up of an entity, application must be made to the ACNC for voluntary revocation.
- 6.4. Upon receipt of approval from the ACNC for voluntary revocation, the register will be updated by Governance and Legal Services and Financial Services notified.

7. Records

- 7.1. Governance will retain a Charities Register of all charities registered with the ACNC. This will be shared with Financial Services, the University Secretary and Legal Services.
- 7.2. Legal Services will keep legal records regarding the registration and income tax exemption notification.
- 7.3. Financial Services will keep financial records of each charity which explain its transactions, financial position and performance.

Related procedures

Charitable Trusts Procedure

Controlled Entities Establishment and Reporting Procedure

Versions

Version	Action	Approved By	Business Owner/s	Approval Date
1	Approved	Deputy Vice-Chancellor Student Services and Operations	Director Governance and Compliance	6 November 2023

Definitions

N/A