



Australian  
Charities and  
Not-for-profits  
Commission

## Not-for-profit

### What is a not-for-profit?

Generally, a not-for-profit is an organisation that does not operate for the profit, personal gain or other benefit of particular people (for example, its members, the people who run it or their friends or relatives). The definition of not-for-profit applies both while the organisation is operating and if it 'winds up' (closes down).

#### Commonwealth definition of charity

The *Charities Act 2013* (Cth) introduces a statutory definition of charity, which started on 1 January 2014. Read more about the [legal meaning of charity](#).

### Benefits to members

It can still be a not-for-profit if it simply provides a benefit to a member while genuinely carrying out its purpose. For example, organisations such as self-help groups can be not-for-profits if the benefits provided to members are consistent with the purposes of the organisation. So, a self-help group for young disadvantaged parents can provide counselling services to a young parent who is a member of the organisation. The member is also a person in need who is helped by the organisation.

### Types of benefits

A not-for-profit can provide direct benefits (such as distributing money or gifts) or indirect benefits (such as a member receiving help that is consistent with the not-for-profits' purpose).

A staff member and, sometimes, a responsible person (such as a board or committee member or trustee) can be paid for their work, but not an unreasonable amount. Your organisation's governing documents (such as its constitution) may include clauses about reasonable payments and benefits.

### Making a profit

A not-for-profit can make a profit, but any profit made must be used for its purpose(s). It can keep profits as long as there is a genuine reason for this and it is to do with its purpose. For example, a good reason to keep profits may be to save up for starting a new project, building new infrastructure or accumulating a reserve so it continues to be sustainable.

If an organisation continues to hold onto significant profits indefinitely, without using them for its charitable purpose, this may suggest that the organisation is not working solely towards its stated charitable purpose (and is not operating as a not-for-profit).

### Demonstrating not-for-profit character

To be registered with the ACNC, you need to show that your organisation meets the requirement of being a not-for-profit. You can do this by having particular statements (clauses) in your organisation's governing documents, and following these. Sample clauses may include wording as used in the following examples.

#### The not-for-profit clause

*Clause 45 of sample show constitution*

This clause sets out how the organisation's assets and income are to be used and distributed.

(X)

*'The assets and income of the organisation shall be applied solely to further its objects and no portion shall be distributed directly or indirectly to the members of the organisation except as genuine compensation for services rendered or expenses incurred on behalf of the organisation.'*

#### The dissolution clause

*Clause 51 of sample show constitution.*

This clause sets out what happens to the organisation's assets if it dissolves or winds up (closes down). To satisfy the ACNC requirements of being a charity, the clause must require the assets to go to another charity.

(X)

*'In the event of the organisation being dissolved, all assets that remain after such dissolution and the satisfaction of all debts and liabilities shall be transferred to another organisation with similar purposes, which is charitable at law and which has rules prohibiting the distribution of its assets and income to its members.'*

#### The DGR revocation clause

This clause is used if the organisation has applied for deductible gift recipient status.

*'If the organisation is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation with similar objects, which is charitable at law, to which income tax deductible gifts can be made:*

*a. gifts of money or property for the principal purpose of the organisation*

- b. contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation*
- c. money received by the organisation because of such gifts and contributions.'*

### **Legal structure**

We also accept that some organisations can show their not-for-profit character through the operation of certain laws, such as state or territory incorporated associations legislation and trust law (for example, charitable trusts).

### **More information**

[ATO: Getting started for non-profit organisations \(includes suggested clauses\)](#)

[ATO: Can you be endorsed as a DGR?](#)

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