

CONFIDENTIALITY AND INTELLECTUAL PROPERTY

If your volunteers are privy to confidential information about your organisation, staff or clients, you need a clear policy on how they should maintain the confidentiality of that information. Intellectual property is another complex issue in the management of information.

Confidentiality

Volunteers in your organisation may have access to privileged or confidential information regarding the organisation or its clients, its staff or other volunteers.

Your volunteers must understand the limitations on the scope and nature of the information they can divulge to others, both within and outside the organisation.

POLICY AND PROCEDURES: SAMPLE

The following policy on confidentiality of information can be adapted to the specific needs of your organisation:

Volunteers are required to maintain confidentiality regarding information involving the organisation, the volunteer program, paid staff, other volunteers and clients.

Information must not be disclosed to anyone outside the organisation or to others within the organisation, unless express permission is given to do so by an appropriate authority.

Breaches of confidentiality will result in disciplinary action or termination of the volunteer's engagement with the organisation, other than where the volunteer can show specific circumstances that justify the breach.

Your policy will need to be supplemented by a set of procedures that spell out the 'specific circumstances' that might **justify a breach** of confidentiality, such as:

- disclosure as part of legal proceedings
- where written permission to disclose was obtained from the client in question
- where failure to disclose the information could have led to injury or death, etc

And of course, you should make sure you include this policy in **induction/training** programs and ask volunteers to **sign a confidentiality agreement** to ensure they are aware of their responsibilities.

Private and confidential

Confidentiality is very much linked to privacy – an area covered by a range of Commonwealth and state laws.

For more on your organisation's responsibilities in relation to information your volunteers (and others), see [Fast Facts – Protecting the Privacy of Volunteers](#).

Intellectual property

Intellectual Property (IP) is a broad term encompassing written, graphic and audiovisual material. Ownership of IP can be complex and especially so in volunteering relationships.

Under Australian law, IP belongs to the creator of the work in the first instance; but the IP of work created by paid employees is generally held by their employer.

However the same does not apply to volunteers.

In its *Guide: Intellectual Property Law for Victorian Community Organisations*, PilchConnect says:

If a contractor or volunteer creates material for your organisation, they will continue to own the IP in the material unless there is a written agreement to the contrary. It is important to reach an agreement with contractors and volunteers about IP ownership before they begin creating material for your organisation. p.24

Volunteering Victoria recommends that all organisations include an IP clause in volunteer agreements and policies.

Organisations that engage volunteers to produce significant materials or resources – their annual report, research or graphics for example – should take particular care to clarify ownership of intellectual property.

You should also ensure you protect your IP by applying the relevant copyright, trademark or registration insignia where applicable.

UNINCORPORATED ORGANISATIONS

Unincorporated organisations cannot legally own Intellectual Property. This is simply because an unincorporated association has no separate legal identity under the law – legally, the organisation does not exist as a ‘person’.

In this case, intellectual property must be held by an individual, on trust for the organisation.

More information

Guide: Intellectual Property Law for Victorian Community Organisations- PilchConnect <http://www.pilch.org.au/Assets/Files/PilchConnect%20IP%20Guide%202021.pdf>

Template: Confidentiality Agreement by Volunteering Queensland <http://www.volunteeringqld.org.au/home/resources/Confidentiality%20Agreement%20Template.pdf>